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VOLUME 22

IN THE SUPERIOR COURT,

State of California, County of Sacramento.

OCTOBER SESSION, 1881.

HON. JACKSON TEMPLE, - - - - - - Presiding Judge.

WINFIELD J. DAVIS, Official Reporter.

SAMUEL OSBOURNE and WILLIAM M. CUTTER, Reporters.

The People of the State of California,
vs.
The Gold Run Ditch and Mining Co.

COUNSEL:

For Plaintiff,

HON. A. L. HART, Attorney General, GEORGE CADWALADER, ISAAC S. BELCHER, A. L. RHODES, RICHARD BAYNE.

For Defendant,

J. K. BYRNE, W. C. BELCHER, S. M. WILSON, W. T. WALLACE, A. B. DIBBLE, A. P. CATLIN.

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In the Superior Court of the State of California in and for the County of Sacramento

The People of the
State of California
vs
The Gold Run Ditch
and Mining Company

Friday
Dec 16th 1881
Morning
Session

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Reported by
Winfield J. Davis
Official Reporter

In the Superior Court
of the State of California
in and for the County of
Sacramento

The People of the State of California vs. The Gold Run Ditch and Mining Company	Morning Session Friday Decr. 16th/81

Re-direct-Examination
George E. H. Betten
resumed

Mr. Byrne. Prior to the time when you took the stand yesterday had you ever conversed with me in relation to what your testimony would be in this case?

A I had not

Q. Had you ever conversed with any attorney in this case in regard to your testimony? A No I did not

Q. On your cross-Examination yesterday you spoke about the size of the Giant, and

and the amount of water which it was possible to discharge through it. Will you explain to the Court your knowledge of the size of that Giant and the reason why you said that not more than 500 cubic inches of water could be discharged through it? A I have been in the claim several times and have observed what, occasionally was the size of the Giant. I believe the number of the Giant is 2, but it does not make so much difference about the size of the Giant, it is principally the nozzle attached to the Giant that the water discharges through

Q What, if you knew, was the size of the nozzle in the month of June 1881?

Mr Hart. It seems to me that is going back into the examination originally.

The Court. We have adopted a rule, that if there is any thing that requires explanation, they

Can do it. Go on

A As to the exact size of the nozzle I could not be very positive but I should judge the last time I saw it, that it was about 5 inches - the nozzle was about 5 inches

Q How much water would that discharge, I mean the greatest quantity of water that could pass through that?

A I should not think it could be over 500 inches

Q You base your statement upon your knowledge of the use of such as a instrument and the quantity of water that can pass through it? A Yes sir

Objected to as leading

Q Upon what do you base your knowledge? - A From familiarity with the process of hydraulicking and from experience in other mines that I have tended myself

Q How much experience of that kind have you had?

A I have worked in hydrauin mines ever since I have been in the State, since 1863, with Giants more particularly since 1869. I think that is the year that Giants were introduced in that district

Q Let me ask you if there was ever more than one Giant used in the Excelsior Claim or the mine last year?

A I have never seen but one

Q If there had been more than one there, would you have seen it? A I suppose I would

Re-cross Examination of George E H Betten

Mr. Hart. Does the size of a nozzle necessarily determine the amount of water that is running through a flume?

A That is running through a pipe?

Q Through a flume - that is the question. Does the size of the nozzle necessarily deter-

6093

mine the amount of water which is running through a flume?

A Well, if you state it in a little different way

Q I won't state it in a different way, I want an answer to that question?

A Well, I do not really know how to answer that, Mr. Attorney.

Q You do not know whether the size of the nozzle necessarily determines the amount that is running through a flume

A The amount that the flume is capable of carrying?

Q No sir, the amount that is running through the flume?

A Oh no, it does not because there may be water coming in from other sources. It does not exactly determine that

Q Now then do you know what it is that determines the amount of water that is running through a nozzle?

A It is the pressure that forces it through

Q. A small nozzle will carry more with heavy pressure than with slight pressure?

A It would certainly carry more with a heavy pressure than it would under slight pressure

Q How much pressure would that require in order to enable a nozzle 5 inches in diameter to carry 1100 inches of water?

A I should judge from the best of my knowledge —

Q What do you know how much pressure would be required? A I could not tell it within a foot or two or even within 50 feet

Q Could you tell it within 100 feet? A Well, I expect I could

Q It would be a guess any way, wouldn't it?

A It would be a guess

Redirect Examination of George E H. Betten

Mr. Byrne. Can an inch nozzle

6095 discharge 1100 inches of water?

under any possible pressure that could be used?

A I could not under any pressure that I have ever seen

Re-cross examination of
George E. H. Betten

Mr. Hart Q How do you know that? A Well, I have seen pretty heavy pressure Mr. Attorney. I have seen it worked under 300 feet pressure and I have seen it worked under 30 feet pressure

Q What is the velocity of water under a 300 foot pressure?

A Where?

Q Any place, through the nozzle? What is the velocity of water through a nozzle under 300 foot pressure?

A I could not tell, the velocity of the water that comes after it is discharged from the nozzle, I suppose, because I am not what you might call a scientific man

I am not an Expert

Q. Your estimate is a guess necessarily? A My Estimate is from Experience

Q Well, I know, but it is a guess nevertheless, not knowing the amount of velocity, is it not? A I do not ~~know~~ what the velocity would have ~~to~~ do with it exactly. Of course the heavier the pressure the stronger the force would be

Q And the greater the velocity. A Yes sir, of course

Q. The force depends upon the velocity? A Certainly, but if you ask me how far that water would drop in a given time I can not state such a thing because I am not sufficiently versed in it

Q I asked you if your Estimate as to the amount coming out of a nozzle under a certain pressure you not knowing the velocity is not necessarily

6097 a guess? A No, not,

necessarily a guess because I can speak from experience in measuring, in seeing water measured, and tending water for others that I was employed for when I would be working in the claim and I would be detailed to tend water all the time whenever water had to be changed from off to on

Q Did you ever measure water at the nozzle?

A At the nozzle?

Q Yes sir? A. No sir, I have never measured water at the nozzle because it is never measured after it leaves the nozzle, it is always measured before it gets into it.

Q Don't you know that under a certain pressure 500 cubic inches would appear to fill the nozzle when the water would be capable of carrying a good deal more?

A You speak of cubic inches,

I do not know about that

Q Miners inches?

A State that question again?

Q Dont you know that under a heavy pressure, 500 miners inches would appear to fill a nozzle when that same nozzle would be capable of carrying twice as much?

A No, it would not 'appear', because if it is under a given pressure that nozzle would take as much as would take its full capacity, provided you would put it into the pipe

Q Does not the pressure depend very largely upon the contraction of the water by the size of the nozzle?

A No not necessarily.

Q. Does it not depend somewhat upon that?

A If you have a 300 foot fall, and an inch nozzle you would have the same pressure almost as you would under a 2 inch nozzle.

Q. Dont you know that if I take a hose an ordinary hose and let water run through it, the water appearing to fill it, that you can afterward put on to that hose a small nozzle which will carry the same amount of water but carry it with very much greater force?

A Well, it would not carry the same amount of water

Q It would not?

A No sir, because the smaller the nozzle the smaller the stream would be

Q. But the greater the velocity, because of the pressure, would it not? A Well, not necessarily. It would be a little no doubt, no doubt it would be a small amount

Q. Don't you know it would be great deal?

A No sir, It would not be a great deal

Q. Why is that when you want to throw water to a great distance you put a small nozzle on the end of the hose? A We do not do that there.

Q Why is it they do it any place, wherever they use water? A I do not know

Q Is it not because of the desire for pressure, and velocity of the water as it comes out of the nozzle?

A It might with very small nozzle, a nozzle of 1/2 an inch diameter, or less than an inch, but those nozzles are not used in mines there the nozzles are all very large

Q But the same principal would apply with a large nozzle that would ~~t a~~ small nozzle would it not?

A I expect it would

Q So that if you con-
6001 tract the size of a nozzle

Supplying the same amount of water it will carry the water with more force and carry the same amount that would be carried, if you had not contracted the size of the nozzle?

A. I will state to you as well as I know if you will allow me; We have a 5 inch nozzle on the discharge pipe, 8 on the main, and through this 5 inch nozzle you discharge 500 inches of water under a given pressure. You take off the 5 inch nozzle and change it to say a four inch nozzle the water would possibly travel with a little greater velocity at the nozzle, but not with near as much water

Q How do you know?

A Well that is the natural law from experience

Q Well what is the natural law from which you deduce that conclusion? What is the natural law? A The law of hydraulic mining, that is the jet that comes from the giant is the weight of the water from the nozzle to where it is put into the pipe, that is what I call natural force

Q Why do you contract the end of the pipe with the nozzle? A We do that because it is not necessary to have such large pipe all the way down as where you put it in

Q Why do you have it larger at one end than the other?

A In order to put it in

Q Why do you have it smaller at the other end?

A Because there the weight of the water will press it

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forward rapidly without it is a large pipe

Q It would press it forward and discharge all the water received at the larger end wouldn't it?

A well it would, not always because you might put in a large nozzle into a pipe and it will not go through that pipe, it will run over and the balance would run into the pipe, it will run through the waste way

Q But the great pressure that you have of the water, the contraction of the lower end of the pipe or the end you use in washing is with a view of receiving water with sufficient weight first at the larger end and then contracting it at the smaller end with a view of getting greater velocity and force is it not?

A No not necessarily

Q You do not make it smaller in order to get greater velocity and force?

A We do that in an economical point of view. Because the pipe is not generally as large where there is 350 feet of pressure as where there is no pressure at all. It is not necessary

Q Where there is no pressure at all you do not have any contraction of the pipe?

A Where there is no pressure at all, that is where the water drops first into the pipe, there is no pressure there

Q Don't you know that the reason for that is, that if you should contract your pipe there being no pressure it would not carry as much water, but where there is pressure it will carry as much?

105 A Well where there is

no pressure it would not carry the water at all, because the water won't run

Q Well I mean comparatively no pressure? A Well when I speak of no pressure that is the point where this pipe received the water from the flume from there to where you drop it in there is no pressure at all

Q Now I want to understand you; do you mean to testify that contraction of the lower end of the nozzle does not increase the velocity of the water?

A Not necessarily because as I understand it, it is the weight of the water from where it is put in

Q The weight of the water at the contracted end?

A If you will allow me I can state it in another way

Q Let me ask you this: if you were to stop up the lower end of the nozzle — would not the pressure upon the last inch of water below be greater than if you allow it to be free or run out? A It might for an instant

Q For an instant it would be greater and then stop? A It would not be any greater. Supposing that you check the flow of water suddenly like this it would be liable to burst the pipe

Q Now the same principle applies in contracting the end does it not? A Well it may to some extent

Q Well, water coming down through the pipe and meeting with an obstruction in the nature of a contraction of the pipe, that contraction increases at that time the force of the water that comes out of the end of the pipe? A The force of the water is increased by its own weight

Q The contraction of the water enables it to be increased because it increases the pressure does it not?

A The contraction of the pipe does not necessarily make the pressure; you could have the pipe the same size all the way down excepting where the nozzle fits on

Q Well that is what I say. When you undertake to force all that water through the smaller one it gives a greater velocity and force does it not?

A I do not see that you can do that

Q Do you know anything about it? A yes sir I have had considerable experience

108 Q In pressing water through

pipes? A I have vended pipes and giants for the last 10 or 12 years

—— " ——

Mr Byrne I wish to offer a deed which I omitted yesterday, a deed from William Judd and others composing the Miner's Ditch Company to the Gold Run Ditch and Mining Company dated the 13th of August 1870, conveying the property known as the Miner's ditch which is a part of the ditch of the defendant at this time

—— " ——

Testimony of H. L. Noyes Noyes

Called for defendant, Sworn

Mr. Byrne Where do you live?
A Gold Run, Placer County
Q What is your occupation?
A Miner
Q What particular claim have you been mining for the last year or the last season?
A In the Excelsior Claim, owned by S. Y. Halsey.
Q Well, in what position have you been there? A Foreman of the Claim
Q During what part of the year 1881 have you been there? I mean, how long did the season last?
A Since February 6th
Q You commenced February 6th? A Yes sir
Q How long have you continued working there for Mr. Halsey
A. I can't tell you exactly

(looking in book) since February 7th

Q You commenced February 7th?

A Yes sir

Q When did the season close?

A In July

Q So that from February to July 1881, you were working in that claim? A Yes sir

Q Were you there constantly?

A Been there every day

Q Do you know how much water was running in that claim or was used on that claim on the 17th of June 1881

A I do, sir

Q How do you know it?

A By the fact of being foreman of the claim, and I have a memorandum which I have to keep in my time book of the amount of water bought and run at that time

Q What was the quantity of water bought and run in that claim on that day?

A You mean the number of

Miners inches?

Q Yes sir? A. There were 500 miners inches running from the miners ditch according to miners measurement.

Q. Was there any other water running in for another ditch?

A There was some from the Little Yuba ditch?

Q How much?

A 20 inches not to exceed 30 inches

Q Any from any other source?

A A little was taken from the Indiana Hill Cement Co's Claim

Q How much? A. 15 to 20 inches

Q. So then what do you say as to the total amount of water running in on to this claim this day? A It would not exceed 600 inches.

Q How is that quantity as to the amount used at any other time during any day in the month of June 1881?

How is that quantity as to

the amount used at any other time during the month of June 1881? A. I had three nozzles that I used to my ~~dis~~ discharge pipe. One of 4½ inches, and one of 5 inches, and one of 5½ inches; which I changed several times during the month. The 4½ inch nozzles carried 440 inches of miners measurement of water. The 5 inches pipe carried 500 inches of miners measurement of water. The 5½ inch pipe or nozzle carried 550 inches of water miners measurement.

Q Is that the full capacity of these nozzles? A Yes sir. As measured from the Miners Ditch gauge box.

Q Was there any greater quantity of water than that which you mentioned running over the bank or into that flume from any source? or any more running except what went through these nozzles? A No sir. Only what I mentioned in these two other places, where we got waste water.

Q Do you know a claim called the Benton claim up there?

A Yes sir

Q Do you know a flume called the Benton flume? A Yes sir

Q You know that claim and flume? A I do

Q Do you know at what time or during what time in 1881, the Benton claim was worked?

A I do

Q At what time?

A In January 1881.

Q Up to what time?

A Up to the time when I took charge of the Halsey claim

Q When was that?

A We commenced work there on the 7th of February. I know we commenced work there on the 7th. I know that by my figures in my book.

Q You know when you commenced work in the Excelsior and when you quit working on the Benton? A Yes sir

Q. And you know that after you commenced working on the Halsey claim the Benton claim was not worked in 1881?

A No sir.

Q Was there any water running through the Benton flume below the point of junction with the Excelsior flume after the time you mentioned? A No sir

Q Was there at any time during the year 1881, or during the month of June in that year, 1100 inches of water running through the Excelsior flume?

A No sir. Not by miner's measurement

Q Are you positive about that?

A I am positive

Q I am requested to ask you this question: Suppose the nozzle is plugged up, what will be the effect of that action?

A Well, the water rushes back and runs over the top of the sand box. It will flow back to the top and run over the sand box. That is if the pipe is strong enough to hold the weight of water. If it should happen to be a poor pipe it might give way somewhere along the line of the pipe. But if the pipe is a good and solid pipe the water will flow back and run over the top of the sand-box

Q Where is the water that is used in hydraulic mine claim measured? A At the ditch, at the miners water ditch. It is taken out of the miners ditch and measured there and then turned into the sand box

Q In reference to this particular claim, how far is it from the measuring point to the sand box?

A I could not state exactly the number of feet. Some 5 or 6 boxes in length I judge. And there are 12 feet boxes, not far from that

Q What is there size?

A Well, it calls for a

6,16 4 feet flume. That is 4

feet wide and from 20 to 22 inches high.

Q You refer to the flume that leads the water from the measuring box to the sand box.

A Yes sir

Q Under what pressure is that water used? How many feet?

A You mean from the sandbox to the claim?

Q Yes sir? A I could not tell that exactly. For I never measured it, I never took the hight

Q From the sand box to the claim or to the mouth or nozzle of the pipe, what would be the pressure? That would constitute the pressure at the nozzle? A Yes sir, that is the pressure, but I could not state the number of feet

Q You dont know exactly? A I dont know exactly

Q Suppose that more water is turned into the pipe from the sand box than the nozzle is capable of discharging

What becomes of the surplus water? A It will naturally flow back over the top of the sand-box where a place is always made to carry off the surplus water

Q During the time you have spoken of, was there any other water either discharged over the sand box or through the pipe? A Well, there is always a very little running over the top of the sand box, in keeping the pipe full, or keeping the stream steady

Q How much?

A 10 or 15 inches

Q. Enough to account for the difference between 1100 and 600 inches?

A That waste water don't go into the flume at all. It goes back into the ditch

Q. Was there any other source from which in the month of June 1881, 600 inches more

6118 of this water which you

have described — 500 or 600 inches more than you have estimated — were discharged onto this claim? A None. None that I know of

Q Well, if there was you would have known it? A I should be most likely to have known it

Q How long have you been in California? A Since 1864. Since the Spring of 1864

Q In what business have you been engaged since you have been here? A In mining

Q All the time? A All the time in the winter season. In the summer season I have done some other work, but all through the winter season I have been engaged in mining

Q Where did you begin to mine? A In Dutch Flat

Q In what year? A The winter of 1864.5

Q When did you first go to Gold Run? A I went to Gold Run in 1867; I think it was November 1867

Q To what extent had the surface of the Gold Run district been washed off at that time? A Well, at that time I think the surface may have been washed off 1/4 or 1/3. Perhaps not so much as that. I could not state exactly

Q What was the character of that surface? The first washings? How was that mined? A By Hydraulic Mining.

Q By means of an outlet or discharge? A It was by the hydraulic process of mining

Q Where did it discharge? A It discharged into Canon Creek.

Q Through tunnels or through open cuts at that time? A Mostly through open cuts

Q How many men were there, working there at that time? A 25 to 30 men

Q When was that?

A In 1867.

Q Do you know about how many inches of water, miners measurement, were used in that district at that time?

A 6000 to 10000 inches I should think.

Q How many ditches were running there?

A Three main ditches and some small tributaries.

Q Do you remember the names of the ditches? A I do

Q Mention them if you please.

A There was the Cedar Creek ditch, owned by Bartlett and Gardner at that time, then there was the South Yuba Canal Co, then there was the Gold Run Ditch & Mining Co. Then there was this little Indiana Hill ditch, which comes to the Cement Mill along above there. And some little ditches from Cañon Creek, that belong to Bradley, and Gardner; some small ditches. But these three Companies had the principal ditches.

Q To what extent was the water, brought in by the various ditches, used at that time? How much of it?

A Pretty much all of it, or the whole of it was used at that time

Q Was it used night and day or only during the day-time? A Night and day.

Q What was the usual or average amount of water used by each claim there at that time? A They averaged from 200 to 500 inches

Q Did each claim have more than one stream at that time? A They had several streams. The claims run small nozzles at that time. Some had 2 and some had 3. I believe one had 4. I don't know but two had 4.

Q At what time was the greater part of that upper bench or

Surface gravel which you have spoken of, worked off

A It was worked off mostly about 1872 or 1873. That is the top or upper stratum was all worked off

Q What then became necessary in order to work the lower stratum? A It was necessary to run a tunnel through the bed rock, in order to get into the channel; in order to get into the ancient channel of the river

Q Was any such tunnel constructed? A There was

Q By what Company?

A The Gold Run Ditch & M. Co.

Q. When was that done?

A I think that was in 1873

Q Do you remember when that tunnel was completed so that they started up to run with it in 1876

Q In what claim did they then start up? A In the Indiana Hill Claim

Q What was the character

of that top gravel as compared with the bottom or lower gravel which was worked through this tunnel?

A The top formation was of lighter material as compared with the bottom

Q Describe to the Court the size of the stones taken out there, in the top, just what their size was?

A Most of them were very small. You would hardly find any that a miner would have to break with a sledge; such as we have to break in the bottom, or blast with powder either; as we have to do with the bottom material. They would go away with the water

Q Upon what grade was it customary to set the sluices when working off this top material? A On an average from 9 to 12 inches

Q For what length of boxes

6125 A 12 feet boxes

Q What is the grade used

in working the lower stratum

A From 4 to 5 inches

Q. How much more would the same quantity of water work away of the top gravel with the heavier grade, than now be worked of the bottom gravel with the lighter grade?

Mr Hart. We want to know whether this man is expert enough to answer that question

Mr Byrne If you know? Do you know?

A. I know the difference between the grades that were used. But I know nothing further than my experience as a miner who has run this material through there would tell me. I know that much

Q Tell your experience?

A I have had considerable experience That has been my principal work since I have been in the state

Q How many years have you been engaged in this business

A. Ever since 1864, up to the present time

Q. All that time in this immediate locality?

A Yes sir, at Dutch Flat and at Gold Run.

Q Is the character of the gravel in the mines at Dutch Flat similar to that at Gold Run? A Similar I should judge.

Q How far are those mines apart? A. About 2½ miles

Q Are they or are they not on a part of the same channel?

A It is the same, so far as I know

Q Do you know whether it is the same channel, or not?

A I should judge the channels connect there at Gold Run ravine. That has always been the understanding so far as I know or so far as I have heard the matter spoken of

Q To what extent have the mines of these two districts been washed or worked? I mean has the surface been washed away so as to enable a person to judge of the identity of the two channels?

A They have been worked to a very great extent pretty much clean through.

Q What in fact divides the workings in the Gold Run district, from those in the Dutch Flat district? What divides them now?

A The railroad.

Q Do you mean the ground which the railroad passes over? A Yes sir

Q How wide is that?

A Well it is about 150 feet I guess. Or 200 feet. I never measured it, but that is about what they allow the miners to use up to, up to 150 feet on either side of the bed of the railroad.

Q Now then, will you answer my former question:

as to how much more of

the light material, of the top washings, with the heavier grade, could be washed away than can now be washed of the heavier material, with the diminished grade". In the Indiana hill claim"?

A I think you could wash away 3 times as much

Mr. Hart. I object. I don't think this witness has shown himself competent to answer that question

The Court. I suppose the witness can tell what he has seen there. He can tell how much he did see carried away; without making any farther estimates upon it

Mr Byrne. That's exactly the question I asked him

The Court. You asked him how much they could carry away

Mr Byrne. I suppose they could carry away all they could and so I put the question in that form

The Court. This witness probably can not say how much an inch of water can wash; how much it could wash then than now. But if he worked there all the time he may have some idea as to the relative quantities that were carried away. A child may know the difference between a barn and a toy house and yet may not be able to give the exact measurements of the comparison.

The Witness. I will state that I worked in the Indiana claim when they worked the top off, or the first bench. There was a grade of 9 inches then or 10. And I am confident that we could run off from twice or three times as much raw dirt then, as we can at the present day of the present dirt.

Q. You have worked in the Indiana Hill claim bottom?

A. Not many days on the

bottom. A few days on the ~~bottom~~

Q. You are familiar with it? A. I have been there several times.

Q. You know the kind of material that is there?

A. I do.

Q. You are familiar with it? A. I am.

Q. What is the width? Of the bottom of the channel there? Taking the gravel that remains to be worked out?

Mr. Hart This is ~~the~~ a matter for scientific calculation.

Mr. Byrne What is the width of the channel where it has been exposed? A I never measured it I could not tell exactly? ~~A about~~

Q About what?

A It would just be an estimate. I should say 200 feet, may be more, may be 250 feet. I would not say positively because I never measured it

6131 Q Have you formed any estimate of the quantity remaining there to be washed out, as compared to that formerly washed? A I have made some estimate.

Q What do you say to that? How much more has been washed out than remains?

A I think there has been three or four times as much washed away as remains in the channel, — so far as I know

Q. Upon what do you base your estimate to that effect? How do you form your estimate?

A I form it on the rim rock on each side of the channel

Q How much wider is the surface washed than is the channel, what remains to be washed? A Considerably wider though I never measured it

Q How many times as wide?

A I should think that in some places that that channel is nearly half a mile wide that is on the first wash.

I should think it was washed off there for half a mile. The present channel is very narrow as compared with that

Q What has been the prevailing custom in that district, in reference to discharging the tailings and water from hydraulic mines? The custom of miners as to the outlet or place of discharge? A The custom of miners has been in disposing of tailings and water from the claims to use sluices and dump from there into Canon Creek and from there the material is discharged into the North Fork of the American River

Q Is there any other place into which this could be discharged? A No other, except at the expense of running another costly tunnel.

Q And where would most of that, where must that, necessarily be constructed from?

A. It would have to be run a considerable distance. And whether or not it could take that channel, I don't know. But it would have to be run from Bear River through that way, if at all

Q Is there any such tunnel, or has there been any such tunnel constructed?

A None in that district

Q. So that the only place of discharge is into Canon Creek?

A Yes sir, Canon Creek.

Q What proportion of this bottom material of which you have spoken is hard rock?

A I should judge 80%.—

Q What does the remainder consist of? A Fine gravel and sand

Q Is there any pipe clay in that bottom stratum?

A None that I know of. I have never seen any there

Q You never saw any there?

A No sir

Q. Are you familiar with

that North Fork River, say from
Rices Bridge up to Canon Creek?
A I have been down that
river

Q When? A. Well, I can
not tell you exactly the time;
It was some two months ago,
that I was along there

Q Can you tell us when was
the first time that you were there?
A I never went down the
river before; never until this
time, when I went from
Pickerings Bar to Rices Bridge:
But I have been along by the
banks of the river and along
in the river for some distance
of 1872 & 1873

Cross-Examination
of
H. L. Noyes

Mr. Hart, Mr. Noyes: as foreman
of the Excelsior dam is it
any part of your duty to
measure the water?
A It is

Q. The foreman of the mine measures the water coming in to it

A. He sees that the claim has the exact number of inches that the company buys

Q. Does the water run into the mine you are speaking of through the flume with perfect regularity? A. Yes sir

Q. Into the claim? A. Yes sir, generally so. The flume is generally put on the natural grade and the water runs in regularly

Q. What grade?

A. Some are put on 5 or 6 inch grade. In order to carry off the material, the gravel deposits.

Q. Can you say that there is not a difference existing every day, which makes some difference in the amount of the flow of water?

A. I cannot state that; I dont know that. That is a portion I cannot state. I never saw that to my knowledge

Q. Can you say that there are

not differences in such cases, which make a very large difference or differences in the condition of affairs? That makes a very large difference in the amount of the flow of water in the same mine?

A The flow of water in what? In what position?

Q Through the flume?

A Through what? Through the mining flume that we run the gravel off in?

Q Through the flume of the mine?

A Through the flume that we run the gravel through? I want to know whether you mean the flume in the mine or the one at the sand box?

Q I will say first the one at the sand box?

A The flume at the sand box is that what you want?

Q That is the one I am asking you about now? And that question is susceptible of an answer of yes or no? Can

6137 you say that there are no

differences in the conditions of the flumes, which make a very large difference in the flow of the water?

A I do not. I dont think it is so.

Q Can you say there is not? Can you say there no such condition or differences?

A I do. I say there are no such differences

Q. Can you say that there are not very vast differences between the flow of water in the flume in the mine?

A There are not.

Q I refer now to the Excelsior mine? are there not reason why very large differences may exist in the flow of water through the flumes in the mine? A None whatever None that I know of.

Q Is there not another flume connecting with the flume of the Excelsior Mine?

A The Benton flume connects with this mine.

Q Now when the water is run through the Benton flume, that makes a large difference?

A There was no water running in the Benton claim, since I had charge of it

Q Answer my question? When there is water running through that flume there is a vast difference in the volume of water in the flume?

A There would be if there was any water running in the Benton flume

Q I say, when there is? Then there is a vast difference?

A I say there is no water there.

Q I didnt ask you that question? Answer the question I put you? I say, when there is water running through this Benton flume then there is a vast difference in the water of the Excelsior flume?

A There is no water in the Benton flume

Q Won't you answer my question?

Ans I will ask the Court to compel you to do so? I say, when there is water running through that flume, the Benton flume, then there is a vast difference in the water of the Excelsior flume?

A I am not on the stand for the Benton Company

Q I did not ask you that question? A I know you didn't but I told you. I was not put on the stand for that purpose.

Q I ask you now whether there is not a vast difference in the Excelsior flume or discharge when the water is running through the Benton flume?

A. There might be some difference if there is any water in the Benton flume, but there isn't

Q There would be a vast difference in the amount of water in the flume of the Excelsior claim if the water was running through the Benton flume? A There is no water there

Q This Benton flume runs into the Excelsior flume?

A It tails in

Q And hence, when water is running through it, does it not enhance the volume of water in the Excelsior flume?

A I never saw any water running in it so I can't tell you

Q Don't you know enough to know, that it would make a vast difference, if the water was running through the Benton flume?

A It might, I don't know.

Q Do you mean to be put on the record as testifying that you don't know whether water running through the Benton flume into the Excelsior flume, would make any difference as to the amount of water in the Excelsior flume?

A There certainly would be more water below at the dump. But I never saw any water is there at all

Q I didnt ask you that question. And I shall have the last part of that answer struck out as not responsive

The Court. I dont think it will hurt any thing

Mr. Hart. I want the witness to answer my questions. I ask him respectful questions, and will continue to do so, if he will answer me respectfully Q You say that you know the amount of water that was used in that Claim on the 16th or 17th of June 1881? A I do

Q Was there Exactly 500 miners inches? A. There was, as near as it can be measured from the guage-box.

Q Is the guage box an accurate means of measurement? A It is, according to mining measurement

Q. When you speak of mining measurement, you speak of a measurement by a method

6142

adopted by the miners?

A I do

Q Is that an exact means of measuring? A I expect it is. I dont know the law of it. I dont know whether there is any law in regard to measurement by a miners inch, But that is the rule we have always had and the rule I have always been charged by.

Q That is all right? Do you know that a miners means of measurements produces accurate results as compared with measurements made by scientific men?

A I dont know anything at all about the measurements made by scientific men. I am not posted in that line of business.

Q You assume that this measurements is right?

A Yes sir

Q That is all there is about that? A Yes sir

6143 Q. Now you say there may

be 75, but not to Exceed 70 inches taken from the Yuba?

A Yes sir

Q And 15 to 20 inches from the Indiana Hill Cement Co?

A Yes sir

Q Making a total of 550 inches in the Extreme?

A Yes sir

Q Now why did you say in addition to that that there was not to Exceed 600 inches? A I was not positive about the amount. Not Exactly. I told you that I was not. But I said that I thought it would take about 550 inches in all

Q. Then how did you come to state, that there was not to Exceed 600 inches? You figured up 550 inches? And then you went on to say that there was not to Exceed 600 inches of water flowing there on the 17th of June 1881? A I have the date

6144 in my time book, not only

of the amount of water at the sand box but of the size of my nozzles.

Q. Having figured up 550 inches why did you say, that there was not to exceed 600 inches on the 17th of June 1881?

A I think that during the whole time it did not exceed 600 inches

Q Do you know whether or not there was water running through other flumes into the Excelsior flume on the 17th of June 1881?

A I know there was not

Q Do you know absolutely whether or not there was water running through that flume of the Benton claim on the 17th of June?

A There was no water running through there

Q Did you see that flume on that day? A I ought to have seen it, I passed it some dozen times every day.

Q Did you see it on that day?

A Yes sir

Q And you at this time, distinctly recollect having seen it on that day?

A I must have seen it, for I passed there, a dozen times I tell you every day

Q Can you remember the times, the days, when water was or was not running through that flume? A. I know when there was no water running through that portion of it

Q When? A In dry times. In June you hardly ever see any water wasted there

Q Well, is it not a fact, that sometimes waste water is run off there in June?

A Very little, if any to my knowledge, and none through that flume. For there is no place for it to get through there now.

Q When did you first con-
6146 ceive the idea of remembering

the fact that there was no water running through that flume on June 17th 1881, through that Benton flume?

A - Ever since I worked for the Company

Q When did you conceive the idea of remembering that fact, first? A What fact?

Q The fact that there was no water in the Benton flume on the 17th of last June?

A Why, any day, since that time

Q Have you thought of that every day since that time?

A Well, I pass by that place every day since I have been working the claim

Q Let me see if you understand me: Every day since the 17th of June 1881, you have reminded yourself that on that day there was no water running through that Benton flume?

A Not every day

6,47 Q. On what day did you

first remind yourself of the fact that there was no water running through the Benton flume on the 17th of June 1881.

A From the time I have been in the claim

Q From the time you have been in that claim, you have reminded yourself that on the 17th of June 1881 there was no water running in that Benton flume?

A I didnt say I reminded myself of that

Q I ask you if at any time since the 17th of June 1881 you have reminded yourself of the fact that there was no water in that flume on that day?

A Well, you can have it that way if you want to, because I have never known that there was any water there since I have been there

The Court. That is a sort of metaphysical idea. Perhaps the witness dont get it exactly.

Mr. Hart. It is not metaphysical. I ask him if at any time since the 17th of June 1881 he has reminded himself that there was no water on that day in the Beeton flume.

Mr. Byrne. We say it is not only metaphysical but absurd: — asking for a categorical answer to a question as to whether the witness has reminded himself of this circumstance every day or any day since this date

The Court. The question is one that the witness may very naturally not understand

Mr. Hart. Is it not the fact that you never thought as to whether or not there was not water in that flume on that day, until it was suggested to you by persons connected with the defence in this case? A. No sir, It is no such thing. Because I knew very well there was no water there

Q. When did you bring that peculiar fact to your mind?

A On the 17th of June, I was working in the claim and I know there was no water in that flume.

Q When was that fact first brought to your mind?

A When I saw it printed in the Sacramento Union, that a certain party had visited the Excelsior mine on the 17th of June — the mine I was foreman of — if I read the article right; — and said that there was 1100 inches of water going through our flume. And I compared my note book for the 17th of June, to find out how many inches of water was actually running there on that day

Q That was the way you came to be reminded of that fact?

A I made a comparison of what the Union said this party said, with my note book

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Q You testify from your note book, but when was it that you remembered the first time and was it brought to your mind the first time that on the 17th of June there was no water in the Benton claim?

A I shall still stick to my answer. There was never any water in the Benton claim —

Q (cont'g) That is not the question. I ask you now whether or not the fact has not been suggested to your mind by parties connected with the defense in this case? A I have been asked if I had my time book and if I could judge the amount of water that was running on the 17th of June

Q Your time book does not refer to the Benton flume?

A It does for the time that I worked for that Company

Q On the 17th of June your book does not refer to the Benton claim? A Certainly it does not. I was not working for the Company

Q I want to know when you first remembered that on the 17th of June you had particularly inspected this flume on the Benton claim and had learned that there was no water in there?

A I did not say that I had particularly inspected the Benton flume. I was at work at the Excelsior flume and I passed back and forth in going up and down the sluice putting in quicksilver and I had to pass the junction of the Benton flume every day and sometimes two or three times a day and I know positively that there was no water running in that flume

Q Do you know it on that day? A That day as well

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as all the time

Q Do you know anything on that day in particular as distinct from other days?

A nothing in particular as distinct from other days

Q It is a mere general recollection of this without any particular recollection as to the 17th? A I know very well—

Q (cont'g) I want you to answer my questions?

A I do answer

Q It is a mere general recollection of this without any recollection? A No further than my being in the claim on the 17th and my book showing in regard to the 17th

Q Your book does not refer to the Benton claim?

A my book is correct though

Q Your book does not refer to the Benton claim?

A I told you that no water was used in the Benton claim

That is as well as I can answer you

Q I ask you whether you have a particular recollection of the 17th of June, or whether your recollection is general, running over several months? A It is general, running through the Season

Q You swear then to the Season and do not swear to the day? A I swear to every day

Q Do you think that your recollection is better as to the 17th of June than that of a man who would go there with the express purpose of ascertaining whether there was any water in that flume on that day? A My recollection with my book is just as good as his with his memorandum, comparing it with my book

Q I do not care about your book. I ask you if your time book refers to the

Benton claim? A My time book does, the time I worked there

Q I mean on the 17th of June.

A I was not keeping the time in the Benton claim at that time

Q If you will be kind enough to keep your time book out when I ask you about the Benton claim you will oblige me. I ask you again if your recollection of the condition of the flume of the Benton claim on the 17th of June is as good or better than that of a man who went there ~~of~~ with the view expressly of inspecting the flume on that day to ascertain the amount of water in it?

A I think it is fully as good

Q Fully as good? A Yes.

Q You have a remarkable mind — A <Laughs> And I can explain to you if you will let me.

Mr Byrne Go ahead and explain

Mr Hart He has no right to explain except what I ask him

The Court He has a right to explain what his means of knowledge are

The Witness At that day when this gentleman was in the claim I remember very well he was there. I could not say whether it was the 17th until he said it here on the Stand and I read it and compared my note book by it, but at that day I was putting in flume in one of my ground sluices in one branch of the main flume and I was washing through another side or cut and I took the old boxes from the Benton claim and packed them over and put them in there and of course if there had been any water in the Benton claim I could not have taken any boxes out of there

Q Was that on the 17th?

A That was on the 17th

Q You swear to that?

A Yes

Q If I should suggest to you that you did not see him on that day, that he measured the water, at all you would not say that you saw him? A I did not say I saw him when he measured the water. I do not know whether he measured the water or not.

Q Do you swear that you took these boxes out on the 17th of June? A I put in boxes there for nearly a week or ten days regular

Q I ask you if you swear you took these boxes out of there on the 17th of June?

A On the 17th and 18th and 19th and 15th and 16th along there for nearly a week or ten days and perhaps longer

Q You were taking the boxes out of that flume and putting them into another one?

A Of the Benton claim and taking them into the Excelsior claim

Q Why didn't you mention that before? when you were asked about your recollection of the Benton claim?

A You would not allow me to look at my book or anything

Q Look at your book and see what time you took the boxes out? A I have not any memorandum of it

Q Can you swear that you took any boxes out of the claim on the 17th or not?

A I think I can

Q Can you? A I can they were put in the flume. We were putting in the flume and lining up the boxes at the time, that is putting in blocks and side pieces

Q Now you said that you

were acquainted with the junction of the two flumes at that time on the 17th of June? A I am acquainted with them all the time. I put them in. I used to be acquainted with them.

Q Do you know where they joined on that day?

A Do I know where they joined?

Q Yes. A Of course I know where the Benton flume joined

Q Did they join on that day? A Joined what?

Q Did those two flumes join on that day? A Certainly they joined all the time

Q Would they join after you took the boxes out?

A The old flume where the Cut is I took the boxes out of there so that they do not join where I have taken them out.

Q Why do you speak of the Conjunction of those two flumes if you had taken the boxes out

A. The junction box is in there still it has not been taken out.

Q So that the flumes join?

A Yes

Q The boxes join in one flume?

A Yes the boxes join the Junction box is there at the present time.

Q Do the flumes join

A Certainly the flumes join there.

Q If you have taken the boxes out do the flumes join

A The main box in the Cut joins.

Q Could the water run through the flume after you have taken the boxes out?

A. It Could run through the Cut all the same

6160 Q Through the Cut?

A Yes

Q How deep is the Cut U of the Benton Claim?

A The Cut of the Benton Claim is different - from two to eight or ten feet deep.

Q Are there any other flumes that join with this excelsior flume?

A No sir.

Q None at all?

A No sir

Q Who measures the water at the mining ditch?

A I measure it and Mr Bartlett the ditch tender of the miners ditch Company measured it and Mr Gould himself has measured it.

Q How deep does the water run in that flume four feet wide and 22 inches deep?

A I do not know how deep it runs I never measured it?

Q What is its Velocity?

A I do not know that

Q What is the pressure upon it?

A The pressure on what

Q On the water running through the flume?

A I could not tell you

Q What is the fall of the flume?

A I do not know what the fall is because I did not put the flume in.

Q How much is your judgement worth as to the amount of water running there when you neither know its depth its velocity or its fall?

A My Judgement is at the gague box.

Q How much is your judgement worth outside of the gague box?

A I measure my water at the gague box and there is where I get it

Q How do you measure it

A By the miners inch.

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Q How do you make your measurements? A There is a box built with 4 inch apertures to it and a 4 inch pressure on top which gives a miner's measurement

Q Does not the amount according to your view then of a miners inch depend entirely upon the fall of the flume? A It does not

Q The main flume? Does not that depend upon the depth of water in the flume? A No sir

Q Does not water run- ~~ning~~ through an aperture faster when there is a pressure on it from above than when there is not? A The steeper you grade so the faster it will run

Q And the deeper the water is the faster it will run? A All I know as to my measurement is by the measurement of miner's inches

Q That is a convenient way of measuring a miner's inch?

A That is all we have to go by. The Ditch Companies and the miners buy and sell water by that

Q When you say that in 1867 10000 miners inches were used in the Gold Run mine, how do you know that?

A By the capacity of the ditches and reservoirs and as ~~[illegible]~~ near as I can recollect

Q What was the capacity of the ditches? A I could not estimate exactly. I could not know

Q How do you know the amount that was running through these ditches without knowing the capacity of these ditches? A Well there were several claims running and they were running so many inches generally. It is a rough estimate. I never said any thing positive but it was nearly 10 000 inches

Q How do you know how much was running there without knowing the capacity of the ditches? A I do not know exactly of course and neither did I say in direct examination there was that much. I said nearly 10 000

Q Did not you testify that 10 000 inches were used in those mines in 1867?

A I said nearly that, thereabouts as far as my judgment is concerned

Q What is your judgment worth on that question?

Mr Byrne that is for the Court to determine, whether his judgment is worth anything

Q How many ditches were there at that time?

A There were three main ditches and one or two little tributaries

Q What was the size of the main ditches? A I do not know the size.

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Q What was the size of the smaller ditches?

A I could not tell the size I never measured them

Q What was the fall of the water in the ditches?

A Well it varies with the incline of the ditches

Q What is the fall of the water in the Gold Run ditch? A I do not know

Q What was the velocity of the water in the ditches?

A I tell you I could not tell the velocity

Q What was the quantity of water in the ditches?

A I do not know that exactly only there were 8 or 10 thousand inches in all the ditches that came into Gold Run

Q How do you know that?

A To the best of my knowledge.

Q What is your knowledge

A As far as the amount is concerned of water that was used I do not know exactly but the general estimate the general estimate of the town where I resided was that there were from 800 to 1000 inches

Q That is what everybody said about it? A Yes, as near as I could tell.

Q It was a mere matter of hearsay? A I never measured it

Q You say in the top gravel that was washed from the Gold Run claims the stones were mostly small? How large were the largest stones you ever saw there?

A I have seen stones maybe weighing 200 or 300 pounds but very seldom you see one that large in the upper stratum

Q What was the ordinary size? A The ordinary size was the size of a hen's egg to as big as your fist or the size of your head

Q Were there not very many as large as your head there? A Not such a great many There were a great many cobbles

Q How much of that dirt if you know, or that material consisted of stones as large as your head and larger? What proportion? A Of the top stratum?

Q Yes? A Well I should judge that it would be maybe 40 or 50 per cent of that size in the top soil. That is a rough guess. I am not posted on any thing of that kind because I am not scientific enough to say

Q How do you know how much more was washed from the upper grade than can be washed from the lower grade? A As I said before by the surface that has been washed off and the rim rock that is

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there, the rims on each side

Q Do you know the duty of a miners' inch in those two kinds of material?

A I do not understand you

Q Do you know how much a miner's inch will wash in either of those two kinds of material? A I never knew how that was.

Q Did you ever make any calculation from which you could arrive at a reasonable approximation or estimate? A I know from my own experience with running water and working in hydraulic mines - attending the hydraulic pipe and getting rid of the pile of dirt

Q You can make a guess at it

A It is a pretty good one too, if you have ever run a claim

Q If you had a little

giant up there you could knock that hill down in less than no time as far as the top was concerned?

A We could get rid of it a great deal faster than we did

Q How wide is the division line between the Gold Run and the Dutch Flat mining districts? A I could not state. I never measured it

Q Is there a cañon there?

A Yes.

Q Where does it run to?

A It runs right along the gravel bed which crosses the ancient channel

Q What do you mean by the ancient channel? A The old river bottom

Q You do not know anything about that do you?

A I have read about them

Q You do not know whether they are ancient channels or not? A They are called Old river beds

Q You do not know whether they are ancient or modern channels? A No and I do not think anyone else does either

Q Did you ever make any estimate or any calculation as to the width of the gravel in this claim, any measurement either above or below? A The Miners?

Q Yes A I never made any measurement, no.

Q How deep down in this claim did you run from the surface before you got down to the hard rock? A In the Good Run claim?

Q In the Good Run claim A I do not know how deep it is, I never measured it

Q It grows gradually harder until you come to the bottom? A Certainly it does and when you get down to the bottom it is very hard.

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Q How did you make your estimate of the amount to be washed as compared with what has been washed?

A I answered that question I think.

Q No sir, you did not. How did you make your estimate of the amount to be washed as compared with that washed?

A By the amount that had been washed out as was shown in the claims and the rim rock on each side of the channel.

Q Did you measure —

A <intg> I did not measure.

Q the width?

A I did not measure the width.

Q Nor the depth? A Nor the depth.

Q Did you calculate the cubic contents? A That is something I do not understand.

Q That is a broad guess that you are making here in relation to that matter is it not? A It is to the best of my knowledge.

Q It is a guess isn't it?

A It is not guess work ordinarily

Q Can you calculate it accurately without making any mathematical calculations? A I cannot get at it so correctly

Q Can you come within 15 or 20 million cubic yards of the contents? A I might, I do not know as to that

Q Are you certain now that you could come within 15 000 000 cubic yards of the contents of the hill there?

A No sir, I do not know as I could, as far as that is concerned. I am not posted in the business

Q How many feet are there in a cubic yard?

<Objected to: question withdrawn>

Q Is it not true that the

top washings varied in depth in some cases particularly from a slight amount to running up to 50 or 60 or 70 feet?

A The top strata varied of course

Q A very large proportion of that portion of the hill the principal part of it was originally washed out from 4 to 5 and 10 to 15 feet deep? Is not that so?

A Some of it was deeper

Q But the larger proportion was less than 30 feet deep was it not? A No sir I do not think so. I think it would go over that.

Q You think the larger proportion was over 30 feet?

A yes, considerably over 30 feet

Q Do you know how deep this pit is that they are mining in? A I do not

Q This gravel bed?

A I do not I never measured

it

Q You judge there is 80 per cent of hard rock composing the balance, the portion of the claim yet remaining to be worked do you? A As far as I know. I did not say that I knew it

Q Your estimate is based upon what you heard other people say about it?

A Yes, most of it.

Q Is it not based entirely on Mr Hamilton Smith's opinion or Mr Lygueld's? A No sir I do not know as it is based altogether on that for I have heard some others talking on the same thing and what I have seen of the material judging to the best of my knowledge I should judge it was somewhere from 75 to 80 per cent Perhaps a little more and perhaps a little less. I could not say exactly

Q You do not think your estimate would be worth much in that question?

A I do not know, but it would be about as good as that of half the people. I do not think it is as good as that of scientific men who are used to the business

Q The principal portion of this is composed of large and small gravel with the interstices filled with sand and smaller gravel?

A There is not so much of the hard heavy material in the top stratum as in the bottom

Q Do you think it would fill up the interstices between these rocks even if the rocks were compactly placed together with 20 per cent of sand? A It would hold a good deal. I could not say how much.

Q Do you think 20 per cent

of sand would fill it? If you would take cobbles and pile them together in a solid mass and then undertake to fill up the places between them, do you think 20 per cent would begin to fill them so as to make it a solid mass? A I could not state positively

Q Don't you know that it would take at least 100 per cent to do it?

A. It might I do not know

Q 50 per cent of the entire mass? A I tell you I do not know. I did not calculate it that way

Q Did you ever estimate how much sand it would take to fill up a box of apples? A I do not know.

Q It would take more sand than apples wouldn't it? A I could not say. Ques. You have no idea then of the amount of fine material it would take to fill it up? A None only my judgment.

Q And hearsay? A yes.

Re direct Examination
Of
H. L. Noyes

Mr Byrne What do you say is the average depths of the top washings

A The top washings.

Q yes?

A. It was 75 or 80 feet along there

Q That would be the average depth?

A Perhaps a little more and perhaps a little less but he wanted me to state it to bee fifteen or twenty feet or thirty feet and I said that the average was more than that.

Q You now say it would average seventy five feet?

A. I should say 75 or 80 feet perhaps more I will not say positive I have never measured it

Q How many days were you engaged in moving boxes from the Benton flume to the Excelsior flume in the month of June 1881?

A I could not state the number of days, we were grading for the boxes every day during the month of June.

Q You remember seeing Mr Allardt there?

A. I do not know the gentlemans name but a man come into the claim.

Q This is Mr Allardt did you see him there (Pointing)

A. I think I saw that gentleman I spoke to him at the hydraulic pipe

Q Did you see him make any measurements of the flume?

A. I did not I do not know where he measured

Q You were asked if any

one suggested to you the fact that on the 17th of June there were not 1100 inches of water running in that flume=

"Objected to."

Q I will ask you if any body connected with this case suggested — was there any suggestion made to you about this matter at all until you yourself had thought about it?

A. In regard to the Benton Flume?

Q With regard to the statement by Mr Allardt that there were 1100 inches of water running through there in the month of June?

A. None until I saw the Sacramento union That is where I first got my information that there were 1100 inches of water running in the

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Excelsior Claim.

Q What then did you do with relation to it?

A I took that paper after reading it and compared it with my time book which I have to find out the amount of water I was buying on the 17th of June — which I had taken on the 17th of June and the size of the nozzle we were running and when we changed the nozzles and when we had changed the nozzles.

Q When you read that statement did you know whether it was correct or incorrect?

A I knew if there were 1100 inches of water it was not running there at that time. I knew on the 17th there were no 1100 inches of water running there, miners inches at the Excelsior Claim bought.

Q Now I want you to describe to the Court the measuring box that is used there?

A. The guage box?

Q Yes?

A That is a box that is set beside of the mining ditch where the ditch flows by and it is connected with a ditch and placed on a dead level averaging from 12 feet to 16 and perhaps 20 feet square, There is no particular distance in regard to the length or bredth. It is made of boards sometimes 10 and sometimes 12 feet long and there is an aparature generally of four inches now, generally now but it used to be two for the water to flow out and it is generally left in the bottom of the

6182

box.

Q Is there any current in the bottom of the box or is the water still?

A The water is supposed to be still.

Q Did you ever measure the water running in the flume?

A. No sir.

Q The miners never do that?

A. No sir.

Re Cross Examination of H. L. Noyes

Mr Hart How deep did the water run in the flume in the mine down below its junction of the flume of the Benton Company?

A. I do not know how deep it was running. Clear water would not run near as deep as water would that had a

6183

lot of material in it that would naturally raise the water up.

Q You think that would increase the volume?

A. I do not. I think clear water will run faster than water with heavy tailings

Q How deep about was the water? A I could not tell you how deep it was. I never measured it

Q Was it not at least 8 inches deep? A I could not tell you. I never have measured the flume running to the dump because there was no requirement to measure it

Q You were looking out for your supply and not for what you sent away? A We did not measure the tailings

Q Was it not at least 8 inches deep? A I could not tell you.

6184 Q Should you judge so?

A I would not judge. I do not know

Q You do not know anything about it? A I do not know how deep it does run

Q Did you not ever look at this flume to see what water was running through it when you were examining the Benton? A Yes I could see it

Q Can you not make an estimate as to the quantity whether it was 8 inches or 8 feet deep? A I cannot make an estimate either The flume run on a six inch grade — running as that run and as fast as that did I do not know anything about measuring water in that way. We run the dirt through it as fast as we could

Q You were running the dirt out pretty fast?

6185 A Yes. We generally ran the dirt out when we had it, but sometimes we did not have it

Q Was that water pretty thick with mud? A I could not tell you. It generally runs pretty thick when we have plenty of dirt to run out and when we get scant of dirt we pipe the banks again.

Q It was nearly thick enough to stir. I could not say how it was on that particular day; still it does run middling thick. That is the idea; to get rid of all the dirt we can to make the claim pay.

Q The more dirt you got the more pay you get?

A yes certainly. The gold is in the dirt. We have to get it out

Q Could not you make a rough estimate now as to whether this was 4 inches deep 8 inches deep or 12 inches deep? A I would

6186

not make any estimate in regard to it. That is something I never measured in my life, the depth in the flume running the dirt from the mine

Q Do you know how fast the water runs there?

A No sir.

Q It runs pretty fast don't it? A It runs middling fast on a six inch grade

Q It runs very fast?

A I do not know what you call very fast

Q About 10 miles an hour?

A I could not tell. I am not used to judging from that.

Mr Byrne What kind of dirt were you running at the time spoken of?

A Principally blue dirt

Q Light or heavy?

A The lighter material on the bottom is a great deal heavier than the red dirt is

Mr Hart Was it crushed up—crushed fine? Do you know?

A As it falls from the bank, it generally breaks up so that we can run it off without any trouble

Q Was it fine dirt?

A As I said, it was filled with small rocks and cobbles but it was not as heavy as the bottom strata

Q And fine sand and dirt? A yes.

Testimony of J. F. Talbott.

Called for defts. sworn.

Mr Byrne Q When did you come to California? A I came here in the Spring of 1850

Q In what business have you been engaged in for this Country? A Mining

6188 Q When and where did

you first mine? A I mined in the Spring and summer of 1850 at Placerville

Q Where next and when?

A In January 1851 I went to Placer County and mined at Grizzly Canon in the Spring of 1851 and I mined on the North fork of the American river at high bar

Q Go right along and state at what different places and in what Counties you have mined and when?

A I mined in the Spring and Summer of 1851 the latter part of the Spring about Yankee Jim's

Q What County is that in?

A Placer County. In the Spring of 1852. I was prospecting and discovered the diggings at Indiana Hill and I mined there until 1855

Q You say you discovered the Indiana Hill diggings?

A Yes.

Q Where is the claim upon which you made that discovery with reference to what is now known as the Indiana Still Claim of the Gold Run Company?

A It lies on a narrow point on a bluff on the North fork of the American River.

Q Can you point out on that map the place where you discovered that claim with reference to to Indiana Still claim now? How is it marked on that map? A The point is marked here the Cement Mill.

Q On what ravine is that? A It is the Indiana Still Ravine. The Indiana Ravine

Q Where with reference to the mine now known as the Indiana Still Claim of the Gold Run Company?

A It lies immediately

South of the claim of the Indiana Still Company

Q Who were the locators of that claim? A Stephen J. Beers —

Q (cont'd) I am not referring to the claim which you discovered and located but to the claim that now belongs to the Gold Run Company and is known as the Indiana Still claim? A I could not say about that. At the time of the discovery there was considerable excitement and the ground was all staked off. I do not know the original locators. In some places they did no work

Q After you discovered the claim did you make a location? A yes.

Q How long after that was it before other locations were made there?

A well, as I stated, the first locations were made at the time of the discovery

6191

and the parties locating above on the Indiana Ravine worked their claims right along when water could be had

Q Will you give the time in the year 1852 when that discovery and location was made? A It was made in the latter part of May or the first of June

Mr Hart Of the Indiana Still claim?

Mr Byrne Yes. (To witness) When if you know, was the mining district formed there?

A A mining district was formed at the time of the discovery Q How was it formed?

A My present recollection is that we included the gravel deposit between Indiana Still and Potato Ravine

Q That is what you included but I ask you what action
6192 was taken by the miners to form a district? What

did they do? A They passed laws regulating — in the first place they gave a name to the hill, to the diggings as was customary and they passed laws regulating the size of claims and the manner of working

Q Is that what is ordinarily known as forming a mining district?

A Yes.

Q Do you remember who located the claims adjoining your claim upon the upper side, up the ravine?

A Yes.

Q Will you give their names

A Levi Karner - I do not remember them ever for claims located in there. I do not remember the other parties names

~~The Court.~~ Is this for the purpose of tracing title to the ground

~~Mr Byrne~~ It is for the purpose of showing original locations of the claims which are now owned by the Gold Run Company, and I propose to follow that up by showing that they have been continuously worked ever since by the use of water

~~The Court~~. I do not suppose that would be contested

~~Mr Hart~~. I do not think it is material at all

~~Mr. Byrne~~. We think it is. We claim a prescriptive right there

~~Mr Hart~~. There can not be any such thing as a prescriptive right to maintain

6194

a Nuisance

Mr. Byrne That is a matter of argument

Q When was work first Commenced upon the claim now Known as the Gold Run?

Mr. Hart. Subject to that as immaterial

The Court. I suppose you might make a statement broad enough that Counsel can admit the fact, although they deny the force and Effect of it

Mr. Byrne. After we have proved our title we propose to show by this witness, that work was commenced in that particular Claim in the year 1852, and it has been Continued from that time Ever since in the same ~~way~~ and manner, with the same outlets, and the same or similar places of discharge

The Court. And you propose to follow that up by like proof of all the Claims that you have, that they were 6195 located about 1852, that they have been mined ever since, that they have discharged their dump matter into Canon Creek and thence washed down into the American River and that they have mined with water. I suppose that is the idea

Mr. Byrne At first I will say to Your Honor that the surface of this Indiana Hill Claim was washed through Indian Ravine directly into the North Fork, but that the other claims, that is the Church and Golden Gate and the Taylor and North Star and these other claims washed into Canon Creek, and now the Indiana Hill since the construction of the deep tunnel washes into Canon Creek

The Court. I suppose it is likely they would admit that as a fact though objecting to it as immaterial

Mr. Rhodes There will be no
6196 objection to the fact that

there first working on the claim over through Indian Ravine

The Court. And that they located their claim according to the then mining customs and mined them according to the then approved manner with water

Mr Rhodes We however object to that as incompetent and immaterial. We can admit that they could prove it by this witness.

Mr Byrne If it is proposed to make an admission of that character we would like to reduce it to writing and have it in such form that the record will show exactly

Mr. Hart. You will present it to us first

Mr. Belcher Yes sir

Mr Byrne. I understood you to say that you had worked upon the North Fork of the American river at High Bar, did you say in 1851?

A In 1851.

Q State to the Court your knowledge of the North Fork of the American River say from Rices Bridge say to the mouth of Canon Creek?

A Well, at High Bar, the particular place where I worked, the bar was elevated 40 feet probably above the bed of the river at that time and the work which I saw there principally was confined to washing the surface strata, and creviceing along up and down the river. At that particular point the river was pretty wide and this bar some 30 or 40 feet above the bed of the river and below that there were places where it was narrow, a short distance, and other reaches where it would be wider

Q At that time were there any tailings in the bed of the North Fork of the American River? A None

Q State to the Court what the condition of that river was with reference to the smoothness of its bottom or whether it was rough with holes in places; A It was like all those rivers, there would be a riffle probably for a short distance and then a bar below it, or the river would widen out probably at places 200 feet wide or more, and narrow.

Q Are you now speaking of the original bottom of the river? A. This is the original bottom

Q How was it as to holes or deep places?

A There were many places where there were deep holes that is ten or twelve feet deep probably

Q Any deeper than that that you know of? A I never noticed particularly in regard to that thing, in passing along the river there might have been places where it is 20 feet or more

Q. When did you last see the river between those points

Mr. Stark Between what points

Mr. Byrne Between Rice's bridge and the mouth of Cañon Creek?

A I do not think I have been over the river since 1865 or 1866 probably

Q What do you say the average width of the bed of that river way from Rice's bridge to the mouth of Cañon Creek? A I should think it would average 75 or 80 feet

Q Where is High bar with reference to Rice's bridge?

A Well, I could not say I have never been over the ground directly.

Q Well, is it above or below?

A It is above but the distance I could not state

Q And how high above the

6200

river did you say the level of that bar was when you saw it as it originally was?

A Between 20 and 40 feet I showed them.

Mr. Hunt. We will not cross examine the witness

Mr. Byrne. I suppose it is understood if we cannot agree upon this admission which we propose to make that we can call the witness again

The Court. Yes, undoubtedly

———— " ————

Testimony of William Van Vachtor

Called for defendant Sworn

Mr. Byrne Where do you live?
A I live at Iowa Hill
Q What business are you engaged in? A Mining
Q What kind of mining?
A Hydraulic mining
Q Where? A At Iowa Hill
Q. Are you familiar with the North Fork of the American River between Rices Bridge and the mouth of Canon Creek? A Yes sir
Q State your means of observation of that river and how long you have known it?
A I went on to the North Fork in 1855 at High Bar, just below Iowa Hill

Mr Hart. You went there in 1855 you say? A Yes sir

Mr. Byrne. Well during what time since then have you been engaged in mining on the

North Fork, or near it?

A Well. I have been interested in mines on the North Fork. I worked on High Bar till about 1857. In 1858 I purchased a claim down on the North Fork right at the mouth of Jameson Ravine and the Bar right at the mouth of Jameson Ravine

Q What ravine is that?

A That is the ravine that leads from Iowa Hill into North Fork

Q When did you say you purchased a claim there? A 1858

Q Where is Jameson Ravine with reference to High Bar?

A Jameson Ravine is right at the head of High Bar. High Bar is on the opposite side and the ravine comes in probably 200. feet above that, the head of it.

Q Where with reference to Iowa Hill? A About a mile from Iowa Hill

Q What is the outlet or place of discharge from the Iowa Hill mines? A Jameson Ravine

Q From what other mines if any does it conduct the tailings — I mean any other mines discharging? A No other mines discharge into that ravine

Q What is the outlet of Independence Hill? A That is what is called I believe the Hobson & Vanderveer Ravine, sometimes called the Vanderveer Ravine and sometimes the Hobson Canon or Ravine.

Q Have you any mining works in Jameson Ravine near the North Fork of the American River? A Not at present, my mining works are in Hobson Ravine

Q What kind of mining works have you there? where is that? A That is about 2000 feet above the Jameson Ravine

Q Into the North Fork? A Yes sir

Q State what kind of mining works you have there?

A I have an under-current

right at the river

Q How long have you had it there? A I have owned the claim three years at that point

Q Did you ever own a claim upon the North Fork of the American River, between the time you first went there and the present time?

A Yes sir

Q State where? A I owned a claim between the Hobson Ravine and the Jameson Ravine on the opposite side on the North side of the river?

Q State how familiar you are with the North Fork of the American River between Rices Bridge and the mouth of Canon Creek, how often have you been over it and what you know about its condition?

A I can not tell you how often I have been over it but I have been over it a

6200 great many times

Q. Do you know what the condition of that river was in the year 1876 as to the amount of tailings in it?

A Well, there was but very little tailings in it at that time. They commenced coming in in 1876, the winter of 1875 in January there was a freshet in the river and they left a few tailings at that time

Q Where did these tailings come from? A These tailings that were in the river at that time

Q Yes sir? A They came from the claims above, on the Gold Run side, and they also come from the Jameson claim on Iowa Hill, and there was some washing during that period at Independence Hill.

Q Repeat that?

A These tailings came in the North Fork at that time from Iowa Hill, and there were some came from Independence Hill, some few. There was very little washing there at that time at Independence Hill but from Gold Run, the principal part of that down the river came from Gold Run, they came down the river passed this place

Q When did you say you commenced to observe them in the river there?

A I commenced observing the filling up about 1876 or 1877, along there.

Q Do you recollect what kind of a season, the season of 1875-6 was with reference to floods or high water?

A In 1875 my impression is that the flood we had at that time was in January 1875.

Q What effect did the floods of that winter have upon the tailings which had been prior to that time deposited in the river? A Well, it

6207 cleaned them principally

all out that had come there previously

Q Now, from your knowledge of the river as it was when you first knew it, that is when there were no tailings in it at all, and your recent examination you have made, will you state to the Court how deep the tailings are upon an average between Rices Bridge and the mouth of Cannon creek, or the head of Robinsons Bar we will say

A At the present time?

Q Yes sir? A. At the time that I first saw it, I should judge that the tailings was on an average 40 feet deep, I should judge it was at least that.

Q Are they at point or points deeper than that? A Yes sir

Q At what places, and how deep? A Well, at the mouth of Hobson ravine there are deeper and they are deeper at the Jameson Ravine and they are deeper at Fords Bar - below Fords Bar.

Q How deep are they there? How many feet are they at the deepest place that you have mentioned? A I should think at Fords Bar they were 60 feet deep, and also at the Jameson Ravine, and from that quite a way down it must be 60 feet deep

Q How far down?

A Well, they will go down that deep I should judge to the gorge above Stevens bridge

Q Will you state the distance?

A Well, I can not state the distance exactly - I could state about the distance, I should judge they go down that deep, very nearly, a mile -

The Court. From Fords Bar

A No sir, Jameson Ravine

Mr Hart. Did you say Fords Bar or Pickerings Bar?

A He asked me how deep it was at Fords Bar, I said it was about 60 feet there.

Q At Pickerings Bar also?

A I dont know how deep they are there

Q You do not know that?

A I do not know

Mr Byrne Now what is the character of the material deposited in the river there at the present time?

A The character of the material at the present time, is heavy, large rocks, the material there is large heavy boulders

Q In what condition is it imbedded or placed there in the river? A Well, it is laid across the river, seems to be a solid pavement, extending clear across the river.

Q How does it compare in solidity and compactness with the original deposit in the river as it was when you first mined upon it?

A The bed of the river?

Q Lesser, as it is now

A Well if there was any gravel in the river at that time it is hard a solid like that.

Q Well, I ask you how it compared with the original deposits in the way of solidity and firmness?

A In solidity and firmness at that time when I first knew the river there was no gravel in the river it was bedrock entirely

Q At places?

A. At some places there was gravel that is original gravel

Q That is, the original deposit ~~that~~ was there before any mining took place?

A Yes sir

Q Now how does that present deposit compare with the gravel which was there originally? A Well, it was solid and firm

Q As solid and as firm

do you say

Mr Hart. He did not say that

Mr Byrne. I withdraw that question. What did you say about that?

A It seems to me it is a solid as the original gravel that we used to work there in the river

Q Now that deposit of which you speak, has it been washed away during any of the winter floods since 1875-6?

A Since I have been on Hobson Canon the river at that point has raised about 3 a feet that is in 3 years, it has increased in depth the deposits there

Q What kind of season for high water or otherwise was the season of 1880-1

A Well, there was a great deal of water.

Q Describe how it compared with other winters in that respect? A Well, it is what we call a flood winter

Q. How high was the water at the place on the river where you were? A The depth of the water?

Q Yes sir.

A I should judge it was 10 or 12 feet deep

Q I understand you to say it is what you would call a flood water? A Yes sir

Q Did that flood remove this mass of tailings, that you have described?

A. It has not. The bed still raised

Q From your knowledge of the matter what do you say as to the probability or even the possibility of future floods washing out that deposit which is now in the river, give us your judgment on that point?

A In my judgment I do not think it can wash it out

Q You do not think it can wash it out? A No sir

Q. What is the condition of the river bed at Rices bridge?

A. At Rices bridge there is perhaps 5 feet of tailings there, five or six feet of tailings.

Q. What is the character of the material as you go down the river with reference to the size or weight of the material?

A. Well, the material decreases in size as you go down the river, the rocks are smaller.

Q. Where is the heaviest deposit as to the size of material? A. The heaviest material is right at the place where those different claims dump in.

The Court. You mean the heaviest material?

A. Yes sir and the biggest depth, too.

Mr Byrne. What if you know is the character of the material that is washed from the mines of Gold Run at the present time or has been for the last five years? A Well the material has been very heavy

Q. Have you been there to see and examine it?

A. I was in the claim once I think, since this present company is washing

Q. Describe it to the Court, describe the size of the stone, and the character of the material?

A. Well the stones were large

Q. How large? A. Well, I should judge there were rocks there, that they were blasting and breaking up, and very heavy rock.

Q. Can you not give us an idea how large? as to size in cubic feet they would contain or thereabouts? A. I think I have seen rocks in that diam four or five feet through

Q. Why did they blast them? A Too large to handle anyother way

Q. What was finally done with them after they were blasted? A I believe they were run out

Q. Through the flume?

A. Yes sir

Q. What particular place?

A Well there outlet is into Cañon Creek

Q. From there where did they go? A. Down into the north fork

Q. Do you know Mr Uren?

A Yes sir

Q. Were you with him or did you see him at a time ~~tha~~ when he was making a survey and measurement of the river?

A. I was not sir

Q. Have you stated ~~to~~
6216 Mr Uren the original condition of that river, and

the average width of the river as it originally was from Rices' Bridge to Fords' Bar?

A. Yes sir, I stated what I thought it was

Q. What did you inform him it was?

Question objected to

Q. What do you say it was? A the original width?

Q. The original width of the river? A The original river—

Q. Before any tailings were in it? A. I should think it was about 60 feet in width

Q. Do you speak of that as an average between Rices' Bridge an Fords Bar? A. Oh, there were places where it was much wider. There was, right

6217 in the bed of the river where water was running at low water, some places it was not over thirty feet wide, I should think, close down to the water in low water

Q. I am speaking now of the width of the channel? not exactly where the water runs, because the river may not at all times have been full, but what is the width that is now filled up with tailings to the depth that you have described?

A The surface of the tailings?

Q. No, on the bottom, when you first saw it, from bank to bank?

A. The surface width of the river at present?

Q. I want to fix the bottom width if you can give it, and then I will ask you about
6218 the surface width?

A. Well, I should judge that the average width in the bottom would be 100 feet

Q. Well, what is the present average width, in your judgment of the surface tailings?

A. Well, I should judge 200 feet, the average width

Q. You have said that they would average 40 feet deep in your judgment?

A. Yes sir

Q. What is the character of the material that is washed from the mines at Independence Hill and Iowa Hill, which is discharged in the north fork?

A. Well, the character of the gravel that is discharged into the north fork from Iowa Hill was tolerably heavy, at the bottom there was blue gravel, part of it, and some of it light

6219

Q. How about Independence Hill?

A Well most of that is light

Q. I did not hear you?

A. The most of that is light material

Q. At what time was the principal washing done from the mines at Iowa Hill and Independence Hill, the principal quantity of earth washed away?

A. The principal washing done at Iowa Hill, was done from 1854 up to about 1872?

Q. I am speaking now of the material that was washed into the north fork? A. That is what I say

Q. From 1854 to 1872. you say? A. Yes sir

~~2220~~

6220

Q. Do you know how many acres of land was washed away during those years from those claims?

A. Into the north fork?

Q. Yes sir A I think about 12 acres

Q. Twelve acres?

A. Yes sir

Q. No more than that?

A I do not think so

Q. I am speaking of the Iowa Hill and Independence Hill claim both?

A. Oh, Independence Hill, too? I am speaking now of Iowa Hill alone

Mr Hart Well 12 acres in the Iowa Hill ground?

Mr Byrne How many in Independence Hill?

A. Since that time?

Q Yes sir. A Well, I suppose Independence Hill, that I would have to estimate it from my judgment

Q. That is what I want to know? A It would be about 25 acres, at Independence Hill?

622,

Q. Are there other mines there which discharge into the north fork?

A The mines above Independence Hill, what is called Roaches' Hill,

Q. How much was washed from there from 1854 to 1872? A Well, from 1854 to 1872 there was very little washed from Independence Hill, that was from 1854 to 1872 ~~is~~ the principal washing was done at Iowa Hill, but the principal washing that has been done at Independence Hill is since that time

Q. State when?

A The principal washing at that place has been done in the last three years, Independence 6222 Hill and Roach Hill into the north fork

Q. What has been the character of that material?

A. Well, that material — most of it — a good deal of it is light, the bottom is quite heavy

Q. How many acres do you say was washed at Roach Hill? A. and Independence Hill, I should judge 25 acres, but at the other places at Roach Hill there were two or three openings, I should judge, it all would make 20 acres

Q. How does that material compare with the material which comes from the Gold Run Mine, from the Roach Hill, Independence Hill and Iowa Hill?

A. That material is not so heavy

Q. Can't you make a better comparison than that? I want the Court to know about what the difference is in the material which comes from the Gold Run Mine, and that which comes from these other mines?

A Well, there is none of that heavy blue cement in those claims, or very little. Perhaps you might find a very little

Q. Well, describe the deposit in the Gold Run Mine?

A The Gold Run is large heavy boulders, and a great many of them in a limited space. The top at Independence Hill is red loam, and the boulders are not so thick, they are small, this stratum at Gold Run is all heavy blue cement and large boulders, large heavy boulders

6224 Q. I wish you to state to the Court about how many persons were engaged in mining in the neighborhood of Iowa Hill, and on the American

River from the time you first went there for the next 5 or 6 years; I believe you said you went there in 1854, didn't you? A Yes sir

Q. So from 1854 to 1860 or 1865 - state about how many people there were there when you went there? and then go along and describe the population that was engaged in mining? A Well, I should think when I went there in 1854 and '55, and along there there were 6,000 persons engaged in mining at Iowa Hill, and vacinity around in that neighborhood

Q. How many on the American? A Take Chinamen and all, I should

6225 think there was from —

Q. I do not mean the amount, I mean during the years I have spoken of?

A. When I came there?

Q. Yes sir, and for the next six years?

A. I should think there were 500 persons mining in the mouth of Indian Cañon, about 2 miles below Rices; up to above Fords' Bar there were 500 persons

Q. That was right on the river? A. Yes sir right on the river, in the bed of the river

Q. I understood you to say 6,000 at Iowa Hill and adjoining? A. Yes sir, about 6,000 population at Iowa Hill and vacinity, that included the mining camps around that section, about Township 7 6-226

Q. How many persons are now there engaged in mining in the same tract of country that you have spoken of?

A. In Township 7 there is about 1500 inhabitants altogether

Q. How many engaged in mining

A. Well they are all considered engaged in mining

Q. Whats the principal or the only industry of that section?

A. Well, it is mining altogether

Q. Do you know how much ground there remains at Iowa Hill, and in that vicinity to be washed away by hydraulic process, or that can be washed away into the north fork I mean? A. I can only give you an estimate

6227 from just observation, I should judge that to be washed away by hydraulic power would be may be 250 acres

Q. Yet remaining?

A. Yes sir, that is in that section, that would go into the north fork, not on the north fork side but through Indian Cañon and Shirt Tail Cañon, and what might be washed directly into the north fork

Q. And how much, if you can say, has already been washed away in these same districts?

A Take this whole district that you have been speaking about, as the vacinity of Iowa Hill, I should judge that altogether taking the whole district, that there was 622 J between 250 and 300 acres washed by hydraulic power

Q. Does as much remain to be washed, as has been washed?

A I do not think so

Q. Did you at any time occupy any official position in Placer County? A Yes sir

Q. What office did you hold? A Well, I held the office of Assessor of Placer County and what is called the Third Revenue District, comprising Townships 5, 6, 7, and 8

Q. During what years? A From 1864 to 1869

Q. In the discharge of your duties as Assessor did you travel over those Townships which you have mentioned?

A. I did

Q. I will ask you if the knowledge of the mines, etc. thus acquired, is what you base your statement here upon? A yes sir

6229 Q. Have you ever made an estimate of the gold production of that particular section of the country? A. I did make an estimate of the gold products of Iowa Hill District, and also Township 5

Q. With what result, how much gold do you say has been produced from that region of country? A. Take the Iowa Hill District, which I call Township 7, about $20,000,000 taken out

Q. About how much?

A About $20,000,000

Q. That appears to be the total production since the discovery of gold? A I made that as an estimate

Q. State to the Court what particular means you took to ascertain these facts, or from what you base your estimate?

6.230 A During the time I was Assessor, it was required of the Assessors then, to take statistics, and under that law I inquired of the miners generally the amount of gold that they were taking out, and also got statements from the express offices in regard to the amounts that they received through their offices, and from this data, I made my estimate

Q. Describe to the Court the condition and appearance of the water that flows down from the Gold Run Claim? before it mingles with the washings of Iowa Hill Independence, Roach Hill

A The water that flows from Gold Run at the present time, and on Hobson Cañon I have noticed the condition for the last 3 years. It is

6231

a kind of bluish cast, and when the other claims are not mingled with it, it is comparatively clear

Q. It was comparatively clear? A. Yes sir

Q. I will ask you if the bed of that river is used to some extent as a road bed?

A Teams go up on it now, they have been up it as far as Pickerings Bar?

6232

Q Have you had occasion to drive a wagon over it?

A I had my iron brought up the river

Q Loaded wagons?

A Yes sir

Q What iron do you refer to? A The iron I use for the under current. We use iron for gratings, what we call gratings of the under currents and also for capping the riffles. We use thin iron an inch and a half wide and about 1/16 to 1/8 of an inch thick to cap the riffles and I used bar inch an inch by two for gratings.

Q State how heavily the wagons that you have transported this material with were loaded at the time that they were driven over these tailings?

A Well we only had occasion to use 2 tons of that iron, about 1 ton of iron 20 hundred that was brought on the tailings

Q State what impression the wheels of that wagon made on the bed of the river over which they passed? A well it made very little impression, it sunk down into it like it would over this pavement most

Q Just as it would on a pavement, you say?

A yes sir

Q Have you paid any attention to the amount of material that is washed into the streams in that section of the country by causes other than mining, natural washings so to speak? A yes sir I have noted that. That is I have noticed it

Q Go on and state what you have noticed and the extent of those washings

A well there is a great deal of washing from slides and a washing from roads and of late years since 1874 there has been a great deal of stock that has been driven up high in the mountains above our place on the North fork on the headwaters of the middle and the North Fork and these sheep have caused of late years a great deal more sediment washed into the rivers than previous to that time. The sheep is a great thing to tramp the surface of the ground into dust and when the heavy rains commence they wash them off readily and they also go down to the Cañons and creeks to water and they feed on the hills and they make their trails right up the hills and these sometimes will get a foot deep of this pulverized surface and when the heavy rains come it cuts down those trails and some of them will cut down 10 or 12 feet deep

Q On the mountain side?

A On the mountain side

Q Where does the material that is thus washed out go to?

A It goes into the rivers the middle and the North fork and there is another cause. Of late years there are more fires in the woods, the woods are being burned over more from the campers I suppose and the herders that accidentally let the fire get out and spread all over the hill sides that were formerly covered with underbrush very thick and that burns off and the stuff will be deposited in that will be 23.6

let loose and the heavy rains will fill that down in great quantities

Q How extensive are these slides that you spoke of?

A Well in 1861 and 1862 there were some very heavy slides occurred on the El Dorado and on the head of the North fork

Q At what places?

A Well there was one below Michigan Bluffs quite heavy and on the El Dorado and above Michigan Bluffs.

Q To what extent is the lumbering interest prosecuted the manufacture of lumber prosecuted on the banks or near the North fork of the river? A Well on the Gold Run side it is pretty extensive but on our side it is not so extensive. They only supply the local demand for lumber which is not so extensive

Q Well I mean more particularly in the Gold Run side? A Yes sir there was lumbering there but I could not state as to the amount

Q I will ask you what is the effect of the hauling of logs off the surface of the hills there has upon this natural wash of which we are speaking?

A The heavy loaded wagons will cut down into the earth and going up along in the hill sides and cut very deep into the soil and when the heavy rains come that also makes a way for the water and it sluices itself out and it sluices into the ~~earth~~ far below where the wheels have gone from the force of the water after it gets a course down these places ~~and~~ it will furrow it and come in from the sides and bring in a great deal of dirt and sediment by the force of the water

Q Do you think of any other causes that contribute to this natural wash excepting those that you have mentioned?

A Well the cutting of timber will also add to it.

Q What proportion would say of the material washed into the American river is attributable to natural causes, say the North fork?

Mr Hart Did he ever make any estimate?

Mr Byrne Q Have you ever made an estimate or have you considered that subject? A Well I have thought of the subject I do not know as I have made any systematic estimate. I have noticed it. I have noticed that Indian Cañon when I came away after the last rain was running muddier down that stream than it was during the mining, that is there seemead to be more carried in the water, there was not of course a great deal of water in it but it was very muddy and so was the North fork when I saw it, it seemed to be as muddy from the looks of it as it was during the mining and there was no mining going on at the time

Q I was going to ask you that question: Was there any mining on Indian Cañon or on the North fork at that time?

A No sir not any at all There was no water to mine with

Q You say it was muddier

than when mining was going on? A The water in the Cañon was running muddier I think it was than when there was mining

Q From what source did that mud come?

A That mud came from the hill sides. There had been during that summer a herd of sheep in the headwaters of Indian Cañon and I attributed it to that, a good deal of it. It runs muddy every year but I noticed it was muddier the first rain, the rain previous to my starting down here than I had ever seen it.

Q You have not yet stated your estimate of the proportion

Mr Hart I do not think this witness is capable of stating that.

2.41 Mr Byrne He says he has

considered the subject and formed an opinion

The Court He has already said that it would be a mere guess. Mr Hall said that it could not be estimated.

Mr Byrne This witness shows a great familiarity with that district of the country

The Court All that it would amount to would be a statement that it was great or little I suppose. He has given some idea of the tailings washed and I suppose this is all it would amount to. Go on and ask it.

Mr Byrne Q What do you say as to that? A Well from my observation of water when they were not mining and when the rains come and there is nothing from the hills but the wash I should say that there was at least one half of that thrown in the water comes from the washings of the hill sides when the storms come. Of course this does not occur when it is not raining, you understand.

Q But when it is raining, during the Winter rains, what is the condition of every little rivulet and stream in all that section of the country?

A Well it is running muddy

Q What is the condition of the soil on those mountain sides there as to being light or heavy?

A The character of the soil on the mountain sides where there is soil is light loamy soil

Q Easy to wash?

A Easy to wash.

Q I would like to have
243 you describe to the Court

the flood which took place in the Winter of 1875-6 as you observed it. I meant to have asked you that before? A The flood that took place at that time — the early fall was above. I was supt. of the Iowa Hill Canal at the time and it was the first season that we were running water in the ditch and the first fall above Iowa Hill was snow, in November and there was quite a fall and, in December there was quite a fall of rain and it was principally snow. There must have been from 5 to 10 feet of snow during those months at Canada Hill near Bald Mountain and at the Forbs House it was about 6 feet deep there, 12 miles above Iowa Hill

Q How is it as to the quantity of snow further up in the mountains extending to the summit of the Sierras?

A Well it is much steeper I do not have any personal knowledge of it further than I speak of.

Q Is it not much deeper up there? A It always gains in depth as it goes up. Well in January about the 11th of January I think there started in a warm rain and it continued to rain until it got the snow saturated so full that it seemed to all go at once. Our ditch was broken although we had the waste gates open at every point almost, our ditch was broken in a great many places, the North fork was flooded about the 19th of January I think it was that the
6245 bridge on the North fork

was swept away by the flood

Q What effect did you say that flood had upon the tailings then in the river? A well it carried them principally all out.

Q What is that?

A It carried them principally all out of the river at that time, at those points that I have seen

Q How did that flood compare with the freshet of the Winter of 1880-81?

A well it was something similar to those freshets. I could not say which was the most — the fall of rain in 1875 was not so great as it was in 1881 but I think that the flood was a little greater in the north fork, that is the river raised a little higher than it did in 1880-81 but not much

Q Was there much

difference — you say not much? Do you know where the granite Belt crosses the American river or about where?

A I know about, yes sir.

Q Where? A Well the granite belt crosses the American river down about Auburn

Q On what point on the river, if you know?

A About opposite Auburn; it is below the junction of the middle of the North fork.

Q How far below?

A Well I could not state exactly how far

Q What is the formation right above that point extending to say as far as the Gold Run mine?

A Well I call it slate until you get away up

Q Is there in fact any granite formation or bed rock as you call it above this point where you speak of below the junction of the North and Middle Forks and up to the mouth of Cañon Creek? A not any that I know of

Q To what extent have you examined that subject? A well I have examined to know whether there is any granite or slate. I have never seen any along the river from that point up above Cañon Creek to away higher up a long ways up above Sailor Cañon 20 miles above that

Q Do you know the difference between granite formation and natural formation when you see it? A well I have an idea of the difference.

—— " ——

<Recess till 2 p.m>

In the Superior Court of the State of California in and for the County of Sacramento

The People of the State of California vs. The Gold Run Ditch and Mining Company

Afternoon Session
Friday
Dec. 16/81

Transcript of Testimony
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Winfield J. Davis
Official Reporter

In the Superior Court of the State of California in and for the County of Sacramento.

The People of the State of California
-vs-
The Gold Run Ditch and Mining Company

Friday Dec 16. 1881 Afternoon Session

Testimony
of
William Van Vactor

Resumed

Mr Byrne There are two questions that I desire to ask Mr Van Vactor or perhaps three altogether. Have you made an estimate of the quantity of material now contained in the Gold Run mine which will be washed out in the future that will ever go down the River as far as Rices bridge?

A I have not.

Q What is there if anything at the mouth of Jamison Ravine in the River there?

A At the present time

Q Yes sir what is there that would have a tendency to restrain the flow of material from above if there be anything—

"Objected to as leading"

The Court Was there any obstruction to the passage of material.

A Well the filling in the River there.

~~Q~~ Dr Coming from where?

A There is some coming from Iowa Hill ravine, and not but a very small amount at the present time.

Q Where does the remainder come from?

A This Hopsons ravine was about 2000 feet above that.

Q I intended to say Hopsins ravine?

A This material coming from Independence Hill which makes a fill there which of course would act as a dam or obstruction.

Q What effect does that dam or obstruction have upon the tailings coming from the Gold Run mine?

A Well the Gold Run mine is situated above on the River and dumps in above that and it would operate to stop anything that would come down from there.

Q Is that the practical result and effect of that dam or obstruction at the mouth of Hopsins Ravine?

A Yes sir.

Q It is? A Yes sir

Q How long has that obstruction been there

A. Hopsins Ravine has

been there to my knowledge for the last three years.

Q I am speaking of the dam do you mean the dam?

A I mean this filling in there; I have been there and gauged with this under current for the last three years it has been going along.

Q How much higher is that than it was three years ago?

A The last three years it has filled about 30 feet.

Cross Examination
of
William Van Vactor

Mr Rhodes Is that ravine you speak of opposite Iowa Hill.

Mr Byrne It is above Iowa Hill

The Court Two thousand feet further up the River

Mr Hart Where is Hopsins ravine?

A. That is a ravine that leads from Independence Hill.

Q Where is it with reference to the Gold Run mine?

A It is situated about four miles below Pickerings bar.

Q How far below the mouth of Canyon Creek?

A. I should think it was over four miles.

Q How deep is the material lodged in the stream at that place?

A Well I should Judge to take the whole of it is 45 ~~feet~~ deep.

Q How deep is the material immediately above it?

A Immediately above it probably from 40 to 45 feet.

Q How far up does that extend?

A Well it gets deeper when it gets up towards Warners bridge.

Q The material gets deeper?

A Yes sir.

Q How far up does it extend as going towards Warners bridge, that is in the direction of Warners bridge, above or below Warners bridge this filling?

A This filling, it increases as it goes up until it gets to Warners bridge.

Q And then?

A And then it decreases

Q Gradually?

A. I think so yes sir

Q In such manner as to make the River bed smoother comparitively?

A Well yes it is comparitively smooth.

Q A constant grade down

over this material which you speak of?

A Yes sir it seems to be.

Q There is no place where there is a dam raised up, it is simply a filling in so as to level the grade of the River?

A Simply a filling in.

Q Simply to level the grade of the River?

A Yes sir.

Q So that there is no dam there?

A There is no— what you would call a dam, the water is running there.

Q Water runs about an even course all along down

A Well no it runs swifter some places than others.

Q But the depth is not increased above that place?

A Is it the depth of water?

Q Yes sir

A. Well the water seems

to be stiller?

Q What?

A The water seems to be deeper and stiller above that.

Q How far up?

A Well it would not go very far and then it seems to have more of a grade.

Q How far up is it deeper than that?

A Well I could not say some distance though perhaps a thousand feet

Q You said not very far

A Not very far

Q It is filled up from Hopsins ravine - Hopsin you call it dont you?

A. I call it Hopsins ravine

Q Hopsins?

A Yes sir Hopsins ravine

Q It is filled up from Hopsins ravine filling deeper and deeper and then more and more until it gets up to what bridge?

A Until it gets up to Warners bridge.

Q Then does the bed of the River still Continue to rise?

A From Warners bridge?

Q Yes sir?

A No sir.

Q Does it fall?

A I do not think it falls but there is not so much filling in it.

Q It Continues to rise somewhat so as to give the water a flow down?

A Yes sir

Q All the way up to the mouth of Canyon Creek how often have y.

A Yes sir it is a grade all the way.

Q So that there is no such thing as a dam

A No sir no such thing as a dam

Q It simply serves to graduate the fall of the River, that is to grade the fall of the River in such a manner as to make it fall gradually all the way down?

A I do not know as it is a gradual fall or not I have never levelled it.

Q And when Mr Byrne spoke of that as a dam he used a misnomer. A term that did not express it, there is no dam there, it left no dam across what you would call a dam.

Mr Byrne I think the witness used that expression and not me, I do not wish to be represented as putting words into the mouth of the witness

Mr Hart How much mining is there at Hopkins ravine Or near there tailing into the River?

A Well the wash from Independence Hill and the Union Claims through Hopsins ravine.

Q How large is the incline.

A The Union Claim the size of it is about Nineteen acres I do not Know how much they have washed off, I could not say how much they have washed off

Q The material worked from the Union?

A. Yes sir the Union Claim and the Independence Hill Claim.

Q The material washed from them consists of large and heavy and also fine light material?

A Yes sir.

Q Like it does generally throughout the mountains?

A Well there is a little more light material at Independence than there is at Iowa Hill in the blue lead, Q A little more light material? A Yes sir

Q But at the same time there is a large quantity of large material?

A Oh yes sir.

Q And also a large quantity that comes down from the Union Claims?

A That comes there from same canyon, that is called Independence Hill, those two claims.

Q Averaging from the size of amans head up to large boulders.

A Yes sir

Q At Iowa Hill the material is of the same general character is it not

A The material there is heavier I think.

Q Heavier material than it is at Independence?

A Yes sir the bottom.

Q It consists however of large boulders smale rocks sand and some clay?

A I do not think there is any Clay in Iowa Hill.

Q Sand and rock and large gravel?

A Yes sir Sand

Q What is the general Character of the heavy material towards the bottom of the Claim at Iowa Hill

A. Well there is a streak of blue Cement

Q Blue Cement and gravel above?

A Yes sir.

Q As you proceed upwards from that Claim you find that the material grows lighter and smaller less Cement until you get to the top of the rim?

A Yes sir.

Q Is that a general Characteristic of the mines up in that Country?

A Well yes you might say it was.

Q When was it that you said that massive material was sent out of Iowa Hill?

A The most of the material was sent out of Iowa Hill from 1854 up to about 1870 I think.

Q Since that time they have been constantly working the Claim have they not?

A They have been running the Channel on that side.

Q What?

A They have been constantly working and running a small portion down that side.

Q When you say the most of the material was worked before 1870 you refer of course to the top strattum of red dirt and smaller gravel?

A Well at Iowa Hill they worked to the bed rock, principally - some of the bed rock left in the Claim and they worked a good deal of the Claim to the bed rock?

Q But they had worked more of the top gravel up to that time than you have since?

A Yes sir.

Q The same as they did in Gold Run?

A Well the last run that has been done there by Mr Booth, that has been from the top to the bottom taken altogether

Q The last working?

A Yes sir

Q How long have they been working the last time?

A Well the last working, he worked I think about a year.

Q You refer now for the last workings from 1870 to 1881. The first workings were to 1870; now the last workings of course would be from 1870 to 1881?

A They have been working constantly along but they have not run off but very little stuff; they have been working on a smaller scale than formerly — Chinamen generally have been working the lower portion of the claim blasting it out and running it out.

Q What kind of material have they been working there since 1870?

A Well it has been principally on this bottom.

Q The material on the bottom of this claim is about the same as that on the bottom of the Gold run is it not?

A Well yes something similar

Q Taking the general face of the soil from the bottom of the Claim to the top, very much the same thing is it not

A Well there is this difference in regard to that; the Iowa Hill is situated between Indian Canyon and the North Fork and the ridge seemed to be narrower and the natural has seemed to cut that down to a less depth to the bed rock than the Gold Run Claims.

Q There was not so much of the top gravel to work

A The entire depth there from the bed rock to the original surface as we found it there is only about 140 feet I think, the greatest depth

Q So that the greatest depth that you found of the top gravel would be found in the Gold Run mine

And other mines on the opposite side of the River.

A Yes sir

Q And the most of the working in this Iowa Hill mine was in heavier material than the top gravel?

A I think so. The material that would be on top of course would be lighter but nearer the bed rock the material gets heavier.

Q Is there a great deal of this blue Cement like that [Referring] in the Iowa Hill mine?

A Well I think there is only about 12 feet.

Q About 12 feet in depth that is of the hardest material?

A That is the blue Cement

Q The hardest material near the bed rock?

A Yes sir.

Q Is not that a general Characteristic of the mines up there?

A That seems to be the general Characteristic of the Material in a certain range take for instance the Iowa Hill Claim, the Iowa Hill propper what you call the Iowa Hill Mining Claim, it is in that and also across the Canyon in the Morning Star?

Q And also in the Gold Run?

A And also in the Gold Run

Q Well now how deep a pit have they washed in the Iowa Hill mines since say 1876?

A. Since 1876 I Cannot say how much they have worked there.

Q A very great deal, a very large pit has been made there since that time has there not?

A No not made much of a pit.

Q Well they have washed a large scope of country

A Well it has principally been — you are speaking about the tailings down the Jamison ravine. If you speak of all that has been washed from Iowa Hill taking Sugar Loaf — when we speak of mining localities there we speak of them as Hills etc. Iowa Hill proper is only this Channel across from the North Fork side to the Indian Canyon about twenty five feet long through the Channel. Then we speak of first Sugar loaf and Second Sugar loaf and Independence Hill and Roach Hill

x And   Hill?

Q Well running down into another ravine

6268

A They would be running other places, when we speak of Iowa Hill, there is a portion that comes down into the North Fork directly down Jamisons ravine while the other goes down Canyon Creek at the other end of the Channel.

Q I am speaking of that portion that goes into Jamison ravine, about how many cubic yards would you say had been washed out of this mine, this Iowa Hill mine into Jamison Creek since 1876?

A Well I cannot say because the Chinamen have worked it and they do it by blasting and they work very slow, They are longer at it

Q Several million yards?

A Oh no.

Q Well how many cubic yards would you say?

A I should not say there was half a million.

Q You could not say there was half a million?

A No sir.

Q There was about 400 000 cubic yards then at that point where the Chinamen have worked?

A Well I should state that the bank that they have worked would range six to twelve feet deep for a couple of acres perhaps, now I never estimated the amount what that would be in there.

Q This was since 1876 that you speak of?

A Yes sir

Q Are there not a group right there worked by Chinamen in addition to this couple of acres that you speak of, working the same general material

6270 A There is not any at all

that I know of.

Q None excepting what is worked by Chinamen there at Jamison?

A At Jamison and as I spoke of Mr Booth that worked hydraulic last year.

Q The amount worked out by those Chinamen would be more than sufficient to fill up that River 60 feet deep at the point that you spoke of there that is at Jamison Creek wouldnt it?

A No sir I think not

Q Two acres of land there in a River would not fill it up sixty feet deep, material 12 feet deep

A They worked it from six to twelve feet deep that is all

Q Well from 6 to 12 feet deep covering an

6271 area of two acres would

that not fill up more than sixty feet in a River opposite the place?

A Well I believe that an acre of land a foot deep would be something less than two thousand Cubic yards.

Q Well 2000 Cubic yards would build an immense dam there would it not instead of putting it in sixty feet deep?

A If it would all lay right in a dam, like a dam it would,

Q Would not a considerable portion of that River be filled up sixty feet deep?

A No sir

Q That of itself?

A No sir

Q How far down the River would it fill it sixty feet deep?

A Well if you allow me to estimate it I might

6272

estimate it on that bases and tell you about?

Q Now then down at the other end of that mine they are tailing into Indian Creek you say?

A Into Indian Creek about three miles below Rices bridge that tails into the south Fork.

Q That tails into the South Fork?

A Yes sir.

Q How much have they excavated there?

A On the Indian Canyon side.

Q Since 1876?

A On the Indian Canyon side there is the Orion, the Morning Star and some other smaller Claims below that and a portion of the Independence Hill that tails into Indian Canyon

Q How many Cubic Yards would you say that they have washed out there?

A Well I would not make an estimate.

Q Several million?

A Well I could not give you any estimate.

Q You would say at least six million cubic yards would you not since 1876?

A I will state however - I will give you about the number of acres as near as I can that each one has washed off, I could not unless I set down and calculated, I could not tell how many cubic yards.

Q How many acres?

A Well I think that the Orion has washed off about fifteen acres.

Q How deep?

A Well theres would range from one hundred to the deepest ground they have got there, going under sugar loaf would be deeper than Iowa Hill some, would be perhaps one hundred and sixty feet

Q Now take Roachsbar ~~you have~~ a claim on Roches bar have you sir?

A No sir.

Q At Hopsins ravine?

A Hopsins ravine.

Q Between the time that this stream cleared itself in the winter of 1875 and the winter of 1876 was there any considerable deposit made in the River at this point?

A. At Hopsins.

Q Yes sir?

A No I can tell you more about right at the mouth of Jamisons ravine because I still had my claim at that place.

Q Well at the mouth of Jamisons ravine?

A There was but very little

at that point.

Q Do you know anything about it up and down the River there?

A Well I could not give any correct—

Q (Interrupting) there was a very considerable amount was there not

A Very little.

Q Verry little?

A Yes sir.

Q Well up there you call a million of yards very little do you not?

A Well to give you an idea of what I call ~~millions~~ little, I do not think that there was three feet

Q You do not think that the River filled three feet up and down its length there?

A No sir.

Q Between the winter of 1875 and 76 and the winter of 76 do you think it had filled more than two foot and a half?

A I could not say how much it would fill up each year at that point, it was filled up from that date.

Q Didn't you speak of a bar known as Roaches bar?

A I spoke of a hill known as Roaches Hill.

Q Where is Roaches Hill?

A Roaches Hill is directly above on the ridge above Independence Hill.

Q That also tails into Indian Creek?

A There is a portion of that the south side tails into Indian Creek and the other tails directly into the North Fork through ravines.

Q What amount of mining has been done there since 1876.

A Well there has been at

6277 least ten acres washed off

at least that I would not state how much there is.

Q How deep?

A Well that averages from ten to one hundred and ten perhaps.

Q How many million cubic yards would you say had been taken out of that claim?

A Well I could only estimate it on the bases I told you.

Q Well I ask?

A Well an acre of ground a foot deep would contain about 1600 cubic yards and odd.

The Court How deep has it washed?

A It has washed from ten to one hundred and ten.

Q What did you say the average would be?

A The average would be the difference between ten and one hundred and ten divided by two.

Q That would be the mean but it might not be the average?

Mr Hart Would a foot deep Covering an acre of ground make— A one foot deep on an acre would be about Sixteen hundred Cubic yards and odd according to my Estimation.

Q Now you say it is how much?

A This is from ten feet the Shallowest to about one hundred and ten feet deep

Q What would be the average of that?

A Well if You would take And put the two extremes together and divide them by two will give You about the average, as well as You would average that

Q That would be about sixty

A About sixty feet.

Q Covering four acres?

A No I said at least ten acres.

Q Well is there not as much in your judgement without making a very close there is fifteen acres there

A Well there might be 15 acres there.

Q Well will you put it at 15 acres – would you if you were making an Estimate and had to fix a figure?

A Well you said a certain time – you said since 1876 – No I should not say but ten acres.

Q You would say ten acres instead of 15?

A Yes sir Since 1876. there was quite a bit washed down previous to that I do not know how much.

Q What is the general Character of the material that Comes out of that mine

A Well the top is light

and the bottom of course is heavier.

Q It is just like the other mines that you have described?

A No.

Q Running from light material down to blue gravel cemented?

A No there is but very little blue gravel in any of them there may be a spot here and there.

Q It has some large boulders?

A Yes sir, it has some large boulders, and on the bottom ~~Q~~ some quite large.

Q some cobbles?

A some cobbles

Q What would you say would be the proportion of the boulders and cobbles in that material?

A Well you ask me to make an estimate, I would want to go and examine it closely before I would make any estimates,

Q Well it is at least half is it not boulders and cobbles?

A There is a portion of a top strattum take for instance the pritchers claim there is a portion of the top strattum that has got no rock in it whatever, it is nothing but loam.

Q A very small portion

A I should not think there was sixteen feet, while at first when they first started in there was none of it, it was all gravel, then there is a strattum of what is called pipe clay, I suppose it is a kind of sand, it has a sand streak I should judge that is six feet

Q Then the balance?

A The balance was gravel

Q Large gravel?

A Some of it was large and some of it was small

Q What is the proportion?

A Well the heavy boulders are principally in the bed rock close to the bed rock.

Q And they grow smaller as you go up?

A Yes sir.

Q What would you say would be the proportion in that lower strattum of large boulders as compared with small gravel averaging rocks larger than the one that I now hold in my hand running from that up?

A Larger than that — well I would not like to make an estimate.

Q More than half is it not?

A Of course I think there is more than half.

Q You think there is more than two thirds?

A Well there might be 60 per cent of it.

Q Now of the material that you have found between Pickerings bar and Rices bridge what was the nature of that material deposited in the River?

A Between Pickerings bar and Rices bridge — at the present time.

Q At the time that you spoke of in your examination in Chief, that is from Rices bridge to Pickerings bar, what was the nature of the material that you found there deposited in the River?

A Well at Rices bridge the gravel was quite fine, that is the rock, something that come down the River and they kept of course growing larger as they went up the River.

6284 Q Up to Pickerings bar?

A up to Hopsins ravine

Q Well now how large was the largest material that you saw at Hopsins ravine

A Well I saw rocks there two or three feet through.

Q When you speak of smaller material how small as compared with that (Referring) is that that you found at Rices bridge?

A Well I do not think there was any as large as that.

Q Something like that (Referring)

A There might have been some as large as that. I am speaking of what came down the River. there were some local rocks there on the bottom.

Q Where do you find such rocks as this?

A You can find any amount of them at the mouth of Hopsins ravine

I find a great many of them at the mouth of Hopkins ravine.

Q And all the way down from there nearly to Pickerings bar or I mean Rices bridge

A A very few of them down to Rices bridge.

Q Scattering along, were the rocks generally Clean washed?

A Washed Clean yes sir

Q All the blue Cement had been taken off them

A Yes sir

Q The rocks were generally Clean?

A Yes sir,

Q All the blue Cement had been taken off them

A I did not see any blue Cement down about Rices bridge at all or anything indicating it.

Q Did you see any blue Cement at any point between these places

6286 A I think I saw small

portions of it above Warners bridge.

Q Now the fact is that that blue cement when it is cast from the mine ordinarily rubs off of these rocks is it not?

A It mashes up more or less.

Q And then becomes sand

A of course when it becomes pulverized it becomes sand.

Q With the lighter material that goes down the stream

A Yes sir.

Q You say that in 1875 the flood cleaned out the River that is it cleared it?

A at that point it cleaned it I do not think there was over three feet of tailings at that point at other points I would not say because I did not examine it closely

Q What is the character of the material that was in the River before the flood of 1879?

A Well it was kind of yellow looking material and the rocks did not seem to be so large.

Q Were there not very many boulders in the River before the flood of 1875

A The rocks then were generally a little smaller

Q But there were many boulders also were there not?

A That is according to what size you call boulders

Q Well from this size up (Showing).

A There is some of that kind.

Q And larger?

A And some larger no doubt

Q And a great many of them no doubt

A There is not a great many of them

6288 Q When you speak of a

great many do you refer to them by millions or by the thousand Cubic yards

A Well when I speak of that I speak of the mixture of the Material.

Q Comparitively?

A. Comparitively.

Q But there were million of yards of those rocks left in the River were there not?

A I could not say there were millions.

Q You could not say how many?

A No sir

Q Did you Know the River before the flood of 1862?

A I flumed the River in 1861 and I Know All about it in 1861-62

Q The large boulders that Came from the upper washings of these mines were All washed out by the flood of 1862 were they not

6289 A They were Comparitively all

washed out.

Q And the large boulders that were put in the River from the other washings beneath immediate top washings of the soil were also afterwards washed out in 1875?

A The washings that were put in the River at that time were principally all taken out at that point.

Q In 1875 and also in 1862 has there been any flood in those mountains Comparing with the flood of 1862 since that time?

A Well I call the flood of 1867 & 68 greater. we had a greater rain fall there according to my account.

Q Was there as much water?

A There was more water I think in the river at that point.

6290

Q Well the flood of 1868 also cleaned that River of its boulders and these other sediment did it not?

A It cleaned the tailings principally out Yes sir?

Q Drove them on down the stream do you know how far?

A I could not tell,

Q Beyond your Knowledge

A I am only speaking of the point where I am acquainted with it,

Q Beyond Rices bridge?

A Yes sir.

Q Has there been any flood since 1868 that compared with that flood in the mountains — compared with the flood of 1868,?

A Well that freshet which we had in 1875 was equal to that?

Q of 1868?

A It was equal to that

In the depth of the River I would not say as to that There was near so much rain fall but it Came a different way.

Q It Came in a torrent that time didnt it?

A. It Came in a torrent yes sir.

Q And at that time the water ran down very Rapidly Carrying everything before it didnt it?

A yes sir it did.

Q The fall of the River up there is such that the water when it comes down during extreme high floods is perfectly irristible is it not?

A The current is very strong there.

Q Would it Carry boulders of three hundred pounds?

A It might tumble them over until they found lodgement, until they hold

6292 Q It would carry them

until the struck an obstruction or found an obstruction wouldent it— some obstruction?

A Well I cannot tell you anything about the force of it.

Q After either of those freshets did you examine the River down as far as Lyons bridge?

A I did not sir.

Q How far down below Rices bridge did you examine the River?

A I do not know that I examined it below Rices bridge, I was over it in 1874 until 1879 below Rices bridge, from Rices bridge clear down to the North Fork bridge.

Q When was that?

A From 1874 to 1879 when I was assessor, assessing the persons that was in the River but I never made any examination

Q After one of these extreme floods you find none of the lighter material that comes from these mines any place up there do you in the bed of the River?

A At the time I travelled down the River assessing above the North Fork bridge there was quite a deposit there at that time.

Q Well I mean after one of these floods, immediately after one of the floods that you have spoken of?

A I have never followed down the River immediately after them.

Q You never found where you were any formations of light character of lighter material?

A I never found any lighter material no sir

Q It was carried away
6294 You know that as a fact

dont you?

A I Know that the River was Cleaned out there at those times.

Q Now when you say from Rices bridge to Pickerings bar there is an average of forty feet deep upon what do you make your estimate at this time

A Well I made my estimate upon what I Know of the depth of the River at Certain points.

Q How is that?

A I make my estimate upon the depth of the River as I Know it at Certain points, At Rices bridge you could very readily see it.

Q Did you ever measure any portion of it?

A Well I can tell you the date upon which I made it.

Q Answer the question and then you can tell the date afterwards?

A I never measured to ascertain the depth of the tailings any place.

Q You have never measured the depth of the River at any of those points have you?

A I never made a measurement of it no sir.

Q Neither the length breadth or width?

A No sir

Q Now you make your estimate from your recollection of the depth in different points?

A My recollection of the depth

Q In a River of that kind where there are many falls and holes and narrow places and wide places running through a mountain gorge like that, then your recollection would be but as to few points would it not and the balance would be mostly a guess

6296

A Well of course I took it from the points and took the land marks that I know.

Q Most of that would necessarily be a guess;?

A. I took it from the data that I have,

Q You say that this filling of sixty feet in depth near Jamisons bar is a mile in length?

A I consider it very nearly a mile in length.

Q The amount of material that has come from Fords bar and Independence Hill and Iowa Hill would be very much more than necessary to make all that filling would it not,?

A I do not think so

Q More than a mile in length — dont you think that the amount coming from Iowa Hill, Independence Hill and Fords bar would

6297 be enough to fill a mile

in length 60 feet deep in that River?

A That comes from Roach Hill and Independence Hill lodges above that point I say it is about a mile from Jamison ravine

Q Well now that would be more than enough to fill that River 60 feet deep for a mile wouldnt it

A Well I couldnot say Unless I estimated it.

Q You donot think you Could say about that?

A No sir I could not answer?

Q Well along this River there are little Claims each contributing there small amounts in large and small material are there not?

A I can give you all the Claims that are contributing there.

Q Give them all?

6298 A There is the Independence

Hill two Claims and the Pritchard and there has been some washing in what was called the Aurora and the Wolverine, that is all that is contributing towards it that I know of

Q Iowa Hill?

A There is no washing at Iowa Hill.

Q Well I mean since 1876.?

A Yes sir Iowa Hill.

Q Fordsbar?

A That is the Pritchard that I speaking of. Roach Hill.

Q Is that all that have contributed since 1876 aside from the Gold Run mine, Independence Hill Pritchard, Aurora Wolverin Iowa Hill, are those all

A I think those are all

Q There was the Union

A That is I call that Independence Hill, they Come into the Hopsin ravine both of them, I Call that a part of the Independence Hill, those two Claims are the Independence Hill.

Q Do they all tail directly into the North Fork?

A Yes sir.

Q Now there are some mines along there that tail into ravines running Into the North Fork are there not?

A These all tail into ravines and then Empty into the North Fork. All on the north side of the divide tail through ravines directly into the North Fork, short ravines

Q You would not undertake to deny that the great Majority of this sand fine gravel and blue Cement pulverized, Comes down this River would you?

A Deny it?

Mr Byrne How far down the River do you mean

Mr Hart Are you undertaking to deny that they were washed down the river during these heavy freshets? A I have no doubt that more or less sand comes down the river?

Q And a very great deal, nearly all of it comes down the river when they clean out that river does it not? A It leaves its lodgment there. I do not know where it goes

Q The water is of such velocity there that it would be perfect folly to assert that sand could resist it?

A Well if you want my opinion in regard to washing it at present I will give it to you

Q I do not want it at present. I want to

301

know about this finer material?

A The fine material of course finds a chance to go away if the water will go if there is volume enough to carry it

Q You say when you first knew this river it was bed rock?

A There were a great many places bed rock, entirely

Q Now of the large amount of material that you spoke of still remaining in the river, much of it consists of accumulations there of material that has been thrown in there for 20 years does it not?

A Well as I said before at those points at these periods there was but very little of any thing left there.

3.02

Q But for the past 20 years they have been accumulating there more or less? This very heavy material in the points of the river to which you have referred?

A There has not been as much lately as in previous years. Before the present system of hydraulic mining It was of lighter material when —

Q Kelly? There was some heavy material came along with that dirt? Could you not have found boulders on the top of that ground that were heavy enough to knock a horse down?

A You could have picked out some at Jamiesons. In the early wash through that basin they threw the wash there to one side

Q The formation down the river, from these deposits is first large rocks and then small rocks and then smaller and smaller as you come down the stream?

A yes sir

Q Is that the way it is deposited along down?

A yes sir. I suppose it is

Q Now this wash that you speak of in the side hills, which is the result of the natural washing; what is that? A That consists mostly or entirely, I guess, of the soil on the top of the mountains

Q The red soil is it not?

A Well, it consists of the surface ground

Q A very little of that will color the water very much will it not more than a very great deal of sand in the lower parts of the mining land?

A I suppose that gives color to the water

Q Water carrying a larger proportion of sand, would not show as much of the

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muddy color as water carrying a very little of the top shows? A It might carry a larger proportion and not show it.

Q As the sand in the river moves down, the greater portion moves on the bottom or near the bottom?

A Of course the heavy material holds close to the bottom. The sand you get up there holds very close to the bottom

Q Well, this earth which you speak of, which washes from the side hill, being of a light or reddish material, gives the water a very muddy color? A There is no doubt but what the principal part of that goes down in the water

Q And that gives it a muddy color? A That gives it a color

Q A small amount of that

will color the water?

A Yes sir. It will color it to some extent. A slight amount will color it to a certain extent. And as you increase the amount until you get to a certain proportion, it continues to color it more and more

Q So that standing by the side of the stream as it runs down along the mountains you can estimate which was most in the water, the sand or the sediment? Simply by looking at it?

A Well I have only been speaking of the muddy water. When I speak of muddy water, I don't speak of colored water. I take it that so far as muddiness is concerned, you could not estimate by just looking at the stream whether it was more muddied by sediment than colored by sand. I don't think you could tell the proportions by just looking at it

Q Now in regard to the deposit you have spoken about in the river, where you say the earth is about 60 feet in width? That is usually at or near the dumps in these mines is it not? A Yes sir

Q So that it is a fair inference that this material comes from these mines above? A I suppose it is

Q When you see these dumps there? A Yes sir

Q You say that the material which has been taken from the Gold Run mines has been very heavy? A Yes sir they have been working in the lower strata. Upon the lower benches rather.

Q When you say that the material is very heavy you speak of it as compared to the upper material?

A yes.

Q You mean to say that it is very much heavier than the upper strata?

A yes sir

Q How far up in that mine, from the bed rock, is that kind of material to be found? A I could not give you the distance that it is to be found in that plain.

Q About 10 feet? A I should think it was a great deal higher than that.

Q How much higher would you think? A Well I have not been in that mine I believe since 4 years ago. I think that was the last time I was there.

Q Then in determining the character of the material during the last five years, you will have to leave off the last 4 years, and jump back to 5 years ago?

as you say you haven't been there for 4 or 5 years

A I haven't been there since; not for 4 years at least.

Q You don't know what amount of material they have been washing in there for the last 3 or 4 years? A I know they have been washing in that lower stratum that is all

Q I understand that in running from the lower stratum up toward the top rim, the same material continues, growing lighter and smaller and less compact? A I should judge it did. So that every part and portion of it is easily susceptible of being worked by the hydraulic process?

A I don't know how that is?

Q You don't know how that

is? A I don't know how that is.

Q Do the rocks grow smaller and smaller?

A Well, the largest rocks are near the bed rock. I could not say how large the rocks are

Q Hard cement, like that <pointing> is near the bed rock larger?

A This cement, I should judge, from the looks of it, - from what I saw - would run up for a distance of 40 or 50 or perhaps 60 feet. About that space

Q The same kind of cement as that?

A I think so

Q Is not the hard cement down near the bed rock?

A I could not say.

Q What is the character of the material 50 feet above the bed rock?

A I could not say whether

it is hard or soft

Q Now where would you say that came from?

A I should take it that that came from the blue streak.

Q From your general recollection of the cement in that claim where would you say that came from? A Well, I did not go there to examine the claim thoroughly. I made but a slight examination

Q What would say the principal portion of this material was composed of? Small rocks interspersed with sand and gravel? A Well there is a large portion of large rocks too. Some large rocks.

Q Well, generally that is its condition A yes.

Q I understood you to state this morning that the original width of the river was about 60 feet? A I should judge it was somewhere about that. Taking the thread of the river in some places it would not be so wide. Just where the water would run in a deep trough in some places it might not be over 20 feet wide. Where the water bends around as it does sometimes at a sharp angle—

Q (Contd) In speaking of this 60 feet of width, did refer to the river at high or low water? A I spoke of the river when it was at its lowest, taking the thread of the stream

Q And according to your statement the bottom of the river must be from 20 to 60 feet wide? where the water runs in the Summer time? A Taking an average it would be that

I don't know but it would be over 60 feet on the average

Q Taking the water in the summer time when it is low, it would average 60 feet? A I think about that

Q That is, taking the average of the summer time width? A yes. The bed of the river in some places widens out very much. For instance, at high bar. But I should say the average was 50 or 60 feet. From 20 to 60 feet, that is the thread of the river

Q The banks as a rule extending way down almost vertically? A No sir; only in certain points. But there are places that I can refer you to where they stand up almost perpendicular for over 100 feet

Q Where is that? A That is a gorge just above Stephens Bridge

Q What is the general shape of the river in its bed, from the bottom of the river up? A Well that river varies greatly It varies a great deal more than a river that runs through soil. This river runs through rock and nothing but rock

Q I understood you to say this morning that at Roche's Hill there had been 20 acres washed out.

A I don't think I said 20 acres at Roches Hill I said that I thought there had been about 25 acres taken off at Independence Hill. I think I said that at Roches Hill there was at least 10 acres. That is on the north side. Now if you want to know what is on the South side that i is a different thing

Q You said that there were 250 acres remaining, at Iowa Hill still, to be washed out?

A When I spoke of Iowa Hill as a place, that was different from speaking of it as a mining point, this 250 acres includes Iowa Hill as a whole township that takes the whole ground that can be worked by hydraulic power

Q When did you see the water coming from the Gold Run Mine during the time it was working?

A Well I saw the water coming down the river, of course, from the different mines. And we judged from the color of the water as to where the workings were.

Q When did you see the water coming from the

315 Gold Run mine so as

to form an idea by which you could judge afterwards as to the identity of the water? A well I saw it coming from there the last season

Q Was it blue? A the water was rather of a dirty blue cast

Q A sort of pea green? A no sir, a blue cast

Q A sort of poison look? A I don't know

Mr Belcher Q Has poison any peculiar color?

Mr Hart Yes sir it is green

A This is not green

Mr Hart Q Do you know what were the elements in that water that caused it to be blue? A I could not tell you

Q Do you know whether there was any iron in it?

A I think that there is iron in it

Q Do you know whether the operation of the ore upon that caused it to get red?

A I know that it does get red. I know the water in low seasons in running over this gravel appears red.

Q The iron oxydizes in the water does it not?

A I am speaking of facts as I see them. I could not analyze them or tell you anything more about them. I don't pretend to do that.

Q Looking at this water as it comes out of the mine could you estimate without actual experiment the amount of material that is being carried in the water?

A I think I could give a judgment that is all

Q Could you estimate it with any definiteness or certainty? A Yes sir. I could estimate it by

3317 taking it up

Q But by merely looking

at it you could not? A No.

Q Did you ever take any of it up? A I have

Q There is a good deal of material in it? A There is not a great deal, not when they are running. That is, not at this point where I am speaking of.

Q Not as much as you saw near the mines? A No sir not near as much.

Q What point were you referring to? A I was referring to Stolson's Ravine

Q 'Way down the river? A I never took it out any above that

Q You never took it up at the mine? A No.

Q Don't you know that the blue cement is the stuff that gives the water its color? A I supposed it was of course

Q That is blue cement pulverized, carried in suspension in the water?

A I suppose that this must be somewhat pulverized in order to give the color

Q When you speak of water being comparatively clear you refer to its color and not to the amount of material that comes out of the mines in suspension? A I refer to the amount of material that is in it. I don't refer to the color

Q How far is Hobsons below the mine? A It must be 4 miles down the river

Q You mix a small ditch and a large river and test the amount of the material from the mines? A I spoke of it as I found it in the river

Q Can you say that the water is comparatively clear when it comes from the mine? Answer

Q Do you know whether it is or not? A No sir

Q Do you know anything about it? A No sir

Q How long did you say you had lived on that river? A I have been engaged in mining on that river since 1855 more or less.

Q During that time have you seen a half a dozen specimens like that in front of you in the river?
A No sir

Q Never did? A No sir

Re-direct Examination
of
William Van Vactor

Mr Byrne Q If the water is comparatively clear at Hobson's Ravine — which you say it is — how much more clear would it be at Rice's Bridge? A I should think that that being

{6} 20

material would gradually settle and make it clearer of course

Q How much clearer?

A Very much clearer

Q Upon the same principle by the time it got to Sacramento how clear would it be, if no other material were mixed with it? A I think it would be almost entirely clear

Q You spoke about 250 acres of mining land yet to be washed away at Iowa Hill? A I took in the whole township

Q What would that embrace? A It would embrace the mining camps of Iowa Hill proper, Independence Hill, Roache Hill, Richardsons Hill, Strawberry Flat, Wisconsin Hill, Sucker Flat, Elizabeth Hill, Grizzly Flat, and all those places that lie between Shirt Tail and the North fork

Q The entire township?

A The entire township

Q Give the Court an idea of the size of it?

A Well it is from 3 to 12 miles in width and length. 3 miles by 12 miles at least. It is 12 miles to ~~the~~ Damascus by the road from Iowa Hill. Then there is the line from Shirt tail to the North fork on the other side

Q Then you did not mean to say at Iowa Hill proper there were yet 250 acres to be washed?

A No sir. I made that explanation before

Q How much of this material that has been spoken of as remaining and which may be washed by hydraulic process will be discharged into the North fork of the American

A The whole of it will go into the North fork. A portion from Shirt Tail down by way of Shirt Tail. A portion down by Indian Canon. And a portion down the other way

Q How much of it, or what proportion will go into the North fork of the American above Rices Bridge? A There will be Independence Hill and all that would be washed from Roache Hill

Q How many acres? You have spoken in acres and started to estimate in that way. A From Iowa Hill, taking the first Sugar Loaf, I should think that there would be 50 acres

Q Where does Indiana Canon discharge itself into the North fork?

A About 2 or 3 miles

below Rices Bridge

Q Do the tailings from Indian Canon run into the North fork of the American river or do they remain in the Canon?

A The principal portion for the last 2 or 3 years has remained in the Canon

Q Do you know how deep the tailings are in Indian Canon? A I should think that right at Iowa Hill proper they were 50 or 60 feet deep

Q You say they have remained in Indian Canon for the last few years?

A Yes sir the last 2 years at least.

Q You said in answer to the Attorney General that the average width of the water at its lowest stage was from 10 to 30 feet?

A No sir I said it was from 20 to 60 feet.

Q What is the average width of the channel of the river? I am not speaking now about the water, but the average width of the channel from bank to bank, capable of holding tailings and that does hold tailings?

A On the surface ridge, on the surface of the tailings in places at the present time the average would be about 200 feet

Q That is on the top of the river channel? A yes

Q What has become of the bars upon that river of which you have spoken?

A They have been entirely covered up

Q Within what time?

A Thige Bar has been covered up since 1875

Q The Atty Genl asked you something about the character of the upper portion of the Gold Run Mi

By that did you understand, the upper portion, or the original deposit? The upper portion of that which has been washed away or the deep channel, the blue gravel? I want to know whether the Witness supposed that he was testifying in regard to the entire bank or whether he confined his answer to this particular upper washing?

A I believe that the surface was of different material from that below, of course. I don't know what you mean by the original deposit

Q I mean the surface? From the grass roots? which was washed away years ago? Did you say that any portion of this blue gravel stratum was loosely washed with the pipe? A I did not answer that any of this cement deposit that was there in the low strata or the low stope that they are working in now, was washed away easily. I believe they have worked in some places on three stopes

Q Now is it a fact that there is any material as heavy or as hard in the Iowa Hill mines as that large specimen before you?

A I should judge that there was in the Morning Star, some that was as hard on the bed rock as that.

Q Is there any in that portion of Iowa Hill which is capable of being discharged into the north fork of the American River?

A There is not any at the present time

Q You were asked as I understood if you had seen any of that material in the river along between Hobson's Ravine and Pickering's Bar? Supposing that there was any quantity of it there, would it be observable at the time you were there?

A Very little of it because it would be covered up with sand. It mixes with other material. It would not be seen; very little of it; perhaps none of it as you walked along

Q Does sand mix up with the other material?

A Of course it does

Q Did you say, in response to a question from the Attorney General that a large proportion of the sand came down the river

Mr Hart I object to their cross questioning their own witness

Mr Byrne The Attorney General propounded his questions in the form of assertions and then seemed to take an affirmative response, whether by an actual assent on the part of the witness, in words or by a nod of the head, I could not always tell. The Attorney General always assumed that he had got an affirmative answer and that in many cases where I am sure that the witness would not have answered affirmatively if he had understood the question.

Mr Hart Whatever is the fact about that, about my manner of asking questions, it appears on the record and I am willing to stand by the Record.

Mr Byrne Well, your assertions are on the Record as the language of the witness in reply, according to your assumptions

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Mr Hart If I made assertions in questioning the Witness, the record will show. Is not that the case Mr Sumner?

The Reporter <Mr Sumner> I was not here during the first part of the Examination

Mr Hart Well while you have been here

The Reporter Yes sir

The Court I suppose the Reporters take both question and answer and the assertions of Counsel in addressing Witnesses. That is their business

Mr Byrne In your judgment, what proportion of the sand that comes out of the Gold Run mine comes down the river as far as Rice's Bridge?

Mr Hart I object on the ground that this is going over the same ground ~~that~~ the Witness was examined in first by the defendants

3 30

Counsel

The Court I think he has answered as to that: that in high water the sand did come down the river. At least it left the places of deposit up the river; and the witness did not know where it did go to

Mr Byrne Q How far down the river do you say that the sand comes even at high water? How far has it come during the past 5 years? A Well, a very small proportion of it has come down within that time

Q What reason do you give for that? A On account of the filling up of the river above. It mixes up the river and stays there.

Q Have you intended to say that large boulders came from the surface wash?

A I did not say that.

Mr Hart We object to their

cross-examining their own witness.

Mr Byrne The Attorney General has put that into the mouth of this Witness

Q What do you mean to say in reference to that.

A I say there are no large boulders on the "surface"; unless it might be some of these iron mountain boulders at such places as Indian Hill. There are very few large boulders on the surface. For a great deal of the distance up there there are none at all

Mr Byrne. I understood the Witness under the promptings of the Attorney Genl to say there were

The Court Well I suppose you did not hear the Witness. That probably accounts for it. He has not spoken so as to be heard for some of the time

Mr Hart Q Do you consider

that Straight Bar has been covered up within the last four years? A Yes sir

Q Before it was covered up it was mined out?

A Yes sir. It was mined off

Q To what depth?

A About 16 feet.

Q 16 feet down?

A Yes sir

Q And sand and cobble stones have come down since and covered it up?

A Yes sir. It is covered up now

Q But after it was covered up first it was mined out again? A Yes sir

Q It is filled up as high now as it ever was before? A Yes sir, higher.

Q How much? A I should say there is 10 feet difference.

Q It was washed off and has since been rebuilt?

A Yes sir

Q By heavier material? A yes

Testimony
of
John E. Warner
Called for Deft. Sworn

Mr Byrne Q Where do you reside?
A Fords Bar

Q Where is that? A On the north fork of the American River

Q How far from the mouth of Cañon Creek?
A 2 or 3 miles from Cañon Creek

Q How long have you been a resident of California?
A I came here in 1854

Q How long have you been engaged in mining? or when and where did you first mine? A I first mined at Iowa Hill. I used to tie run the pipes there in the Jameson Claim in 1854

Q When did you first

mine on the American river?

A In 1855

Q At what point?

A At Fords Bar; from Fords Bar up the River.

Q How long did you continue mining?

A From 1855 to 1861, I both wing dammed and flumed the river in that time.

Q Are you familiar with the north fork of the American River from Rice's Bridge up to Canyon Creek? A Yes

Q State to the Court how familiar you are, what your knowledge is, and what your means of knowledge have been?

A Well I have lived on the river and mined; from below Fords Bar, 3 miles below my place, down to Rice's Bridge, I am not so familiar with the river as I am from Stephens's Bridge up

Q How far is Stephens's bridge above Rice's?

A 3 miles I should judge

Q How familiar are you with the river from Stephens's Bridge up? A I have known it since 1855

Q How often have you been up and down it since that time? A A good many times. I could not tell how many

Q Where did you live during that period?

A On the river at Ford's Bar

Q What has been your business there? A Keeping a toll bridge

Q At what point? A At what is called Ford's bar. The old original Ford's Bar is covered over with tailings. What was called Fords Bar in 1855

Q Did you ever mine in Ford's Bar? A Yes sir not on the old original Fords Bar. There are two Fords' Bars. The old original Fords Bar is called High Fords Bar at the present time

Q Do I understand that High Bar and Fords Bar is the same? Ans High Bar is way down below the river 2 or 3 miles further down

Q How high was the original Fords Bar above the bottom of the river?

A 25 or 30 feet from the original bed of the river

Q When did you first notice that the tailings were filling up the bed of the river? A I noticed it some 4 or 5 years ago

Q Prior to that time what was the character of the material deposited in the river? A Well it was a light material that was in the river at that time

Q What was the effect of the Winter floods upon that material?

A Well, in 1875 the principal part of this red dirt that came down from Gold Run went out of the river. So much so in that year, that the next year there was a company of men went to work and engaged in mining in Cañon Creek. That was in 1876

Q Engaged in what kind of mining? A In mining in the river with sluice boxes. Shovelling in

Q Working the red deposit there? A Yes sir and the tailings. That was immediately below Cañon Creek

Q At what point did you say you worked on the original bed of the river?

A I worked both above and below Fords Bar

Q From 1845 to 1861?

A yes sir. I flumed the river both at Ford's Bar and at a claim called the El Dorado

Q Did you ever do any bar mining there? A yes

Q At what bar? A At Fords Bar. There are two bars there called Ford's Bar

Q What is the character of the material at present at Fords Bar, from Pickerings Bar up to Rice's bridge? A Well it is of a bluish color. It is of a rather heavy material So heavy that the water for the last 4 or 5 years, the floods, don't seem to have any effects upon it. I don't see that much of it removes any farther down And wherever there is a turn in the river, this fine sand will wash up to one side and form a bar within itself. And I believe the tailings that are at present solid in the river will never go out

Q How does the deposit which is now in the river compare in point of solidity and firmness with the original deposit you met there in 1855 and up to 1861?

A It is just about as solid as that that I mined in 1859 and 1860

Q Just about as solid.

A Yes sir. I mined through gravel there 20 feet in depth.

Q Will this material move down the stream in the water? A No

Q What would be necessary to remove it supposing you wanted to remove it?

A You would have to use picks and loosen it and throw it up.

Q Dig it up with picks

A Yes sir

Q How deep are the tailings at Ford's Bar? or at Warner's Bridge?

A The only way I can get at the depth of the tailings is by testing it with regard to the height I put my bridges at from the water. I put them at 35 to 40 feet from the old original bed of the river. The last bridge I put up I raised 10 feet. And at this time the tailings are over where the sills of the bridge were laid at the bed rock, where the abutments were.

Q How deep are the tailings at Warner's Bridge?

A About 50 feet

Q What became of these bridges of which you have spoken? A They went off

Q What took them off?

A Water

Q What kind of water?

A as high water. And the tailings; the rushing of the tailings in the river.

Q When did they go?

A One went in 1859 and the other in 1880.

Q What time in 1880?

A Last Winter

Q What time last Winter?

A I disremember now exactly what time it was. I commenced building the abutments up and it went off again

Q Can you drive a loaded wagon over these tailings? A Yes sir. I rode in a buggy from my place up to Pickerings Bar last September with Capt Stone. And it did not seem to make any impression at all upon the tailings

Q Have you seen loaded wagons going there? A I have not. But I have heard of them and seen their tracks

Q I understand you to say that you have lived up there all this time and have observed this river particularly? A yes sir

Q Did you give information to Mr G. C Wren as to the depth of the filling in that river? A yes sir

Q When? A well I think it was in September

Q Was it when he was making measurements and surveys up there? A yes sir I told him about the average width of the river. That's what I told him. From Rice's bridge up to Fords Bar

Q Did you inform him as to what the average width of the river was from Rice's Bridge up to Fords Bar, before any tailings were run in the river?

A yes sir

Q What was it? A About

80 feet I think

Q What was the average width? A Yes sir

Q What is the present average width on the top?

A I should say it was 300 feet; some say it is less than that. I should say it was nearer 300 than 200

Q What was the color of the water that passed down by your bridge there prior to the years 1875 and 1876? A It was a reddish color

Q How long is it since you have seen any water of that color passing by?

A Four or five years

Q What has been the color of the water during the last 4 or 5 years? A Between lead & blue

Q To what extent has it been charged with material In other words, how muddy has it been? A It was not very muddy. I could dip up a bucket of water and take but very little sand in it

Q Did you inform Mr Uren of your recollection of the average depth of the tailings from Rice's bridge to Pickerings Bar?

A I think I did

Q What did you put that at? A It averaged some 35 or 40 feet. But there are some places on the river where it is 60 or 70 feet in depth. At Galloway's bridge, that is as much as 400 feet below where I started to put in my first bridge

Q What is the depth of it there? A About 70 feet I should think, on the far side of the river. that is at the lower end of Fords Bar where Galloway's bridge is. There were some by hydraulic claims on the other side but they are covered up at the present time.

Q With what? A With tailings

Q At one time in the season of 1880-81 the water was considerably high there? A yes sir

Q What you call a flood season? A yes sir

Q This was the flood that carried your bridge away? A yes sir

Q Did that flood have any perceptible effect in moving that mass of tailings in the river? A No sir

Q What was the condition of the river with reference to the tailings during the points you have spoken of between these places, after the flood of 1875-6?

A Well the majority of the tailings had gone out of the river; the majority had

Cross-Examination of John E. Warner

Mr. Hart. Mr. Warner what is your occupation?

A Well, at times I have been keeping a bridge since 1861

Q What is your present occupation? A My present occupation I cannot tell you what it is. It is about doing nothing at this time.

Q Where do you live?

A I live at Sacramento at this present time

Q You are living in Sacramento now? A Yes

Q You are a cosmopolite, I suppose, a person who has no home? A Yes I have a home

Q Where do you live?

A I live at Fords Bar

Q Are you a man of family?

A No sir

Q Have you any property at Fords Bar? A Yes

Q What kind of property?

A Well, I own a part of Fords Bar, but it is of no benefit to me now, on account of tailings

Q It is a mining claim, that they have covered up for you there? A Yes, we can not work it on account of the tailings and I do not suppose I ever will

Q You have no occupation now? A My occupation is living at ease on the river, waiting for chances something or other to come along

Q Waiting for something to turn up? A I have lived there for many years with the expectation to work that river, and I have kept notices there but I think I never can work it, because I do not think the tailings will go off of it

Q Are you a capitalist? A No sir, I am not a capitalist

Q How many years have

you been waiting for an occupation? A I have been waiting for some 20 years, thinking I would have an opportunity to work the river but I expect these tailings will never go away

Q Have you been all this time without any occupation at all? A I have had under-currents, some in the Canon there:

Q How many under-currents have you had in 20 years? A I have had 3 or 4, over that - small ones, small under-currents

Q How long have you been living in Sacramento? A I have been there some 3 weeks, two weeks I think it is

Q You come down as a witness in this case? A Yes.

Q Whom did you come down with? A I came down by myself

Q All alone? A Well, I was not quite all alone, the Conductor was along with me.

Q Have you received any pay for your time in coming down here? A No sir; I have been in bad luck. I have not got any pay in Auburn. I was there on the train wrecking case. I have been in bad luck. I was in that train-wrecking case and I did not get any pay there

Q You did not get any pay there? A No sir

Q And they will not pay you in this case?

Objected to

Q. Do you volunteer your services here in the case then. You have some interest in this case? A. None at all sir. These tailings stopping at my place are a detriment to me

Q You have no interest whatever in the case?

A None at all sir; whatever,

Because the tailings are stopping up at my place and are an injury to me. If the tailings had went through I would not have lost my bridges, and I think I have a better right to bring a suit against the Gold Run Mining Co. that what the farmers have down here

Q I think you have a good cause of action?

A It has done me more injury —

Q "I think you have a good cause of action, sir"?

A I do not know but what I'll get you to bring the suit

Q You say you became acquainted with the river in 1854? A 1855 I said. Even in 1854 I was on the river

Q What part of the river were you on in 1854?

A. At Pickering's Bar

Q At Pickering's Bar?

A At the head of Pickering's Bar.

Q What were you doing on the river at that time?

A Well, sir, some men came up there on a jackass, and I saw them trying to get a load of grub and nobody would credit them for the grub. And I seen they could not get any grub in the town, and I loaned them the money to get a load of grub, and they told me they were working at the head of Pickaways Bar—

Q (Int'g) I did not ask you anything about that. I asked you what occupation you were pursuing up there?

A You asked me what I was doing on the river there

Q I asked you what you were doing up on the river, and what I have reference to is your occupation?

A I went on the river to see these men, that I had furnished the money to, to get the grub with

Q. Where were you living then? A. I was living at Independence Hill

Q That was up on the river further? A That was just beyond Iowa Hill

Q How long is it since you have had — I think I asked you that, but I do not know whether I got an answer to it, or not. — How long since you have had an occupation?

A Since I have had an occupation?

Q Yes? A. I told you I have been engaged in attending a toll bridge from 1861 until last year, when my bridge went off.

Q Your bridge was at Fords Bar?

A. My bridge was at Fords Bar. I built bridges in three different places

Q How far from Fords Bar was your bridge? at which end of Fords Bar, what part of Fords Bar?

A The upper end of Fords Bar

Q Have you ever engaged in the mining business?

A Yes, since little

Q You say that the material that came down at an earlier day was a light material.

A Yes.

Q Red? A Yes.

Q And the material that comes down now, is of a grayish or bluish —

A {Intg} Between lead and a blue color

Q The color of sand now?

A A leadish color

Q It used to be the color of sediment but now it is the color of sand. Is not that a fact?

A I do not know in regard to the color of sand. It is between a blue and a lead color

Q Is it not the color of sand?

A Yes, near about, still sand is generally gray

Q The fact is that the water used to carry a very reddish soil and now it carries more sand?

A I do not know in regard ~~to~~ carrying more sand, but it is more of a bluish color

Q You have never noticed to see whether it was carrying any sand or not?

A. I have tested it in this way. I have taken a bucket of water out of the river

Q And you found sand in it?

A I found very little in it.

Q You found sand in it?

A There might be a very little in it

Q The amount of sand that comes down is entirely owing to the season of the year?

A Yes, of course

Q. In the winter season more sand comes down, than comes down in the summer season?

A Of course, it comes down when they are washing I suppose.

Q When they are washing the sand comes down?

A Yes.

Q How many years have you noticed that this sand was coming down?

A I have noticed this that after a flood, that the action of the water comes through bars up on to one side. It comes through a bar up. That is the only way I have seen any sand. Immediately where the stream runs I seen no sand, nothing there but boulders.

Q You have seen the water to be of the color of sand then? A I do not know as it was exactly the color of sand

Q. From a blue to a grey color? A It is from a lead color to a blue

Q Which you say is about the color of sand? A No sir; sand is more a grey.

Q Did you not say that? A No sir

Q You did not say it was

about the color of sand?

A I think not about the color of sand

Mr. Hunt. Mr Reporter read what he said a little while ago —

Reporter read

Q You said that, didn't you?

A I do not recollect. I may have said that, but if I did, I think it is more of a bluish color

Q I ask you this question: If the color of that water as it has been coming down in the last six years, is not of the color of sand?

A I do not think it is. Sand is more grey than what that water is

Q There is some other material in there besides sand probably then. Do you not know that sand comes down the river constantly? A Don't I know it?

Q Yes? A No I do not know it.

Q. Dont you know that it has been coming down the river every time you have noticed it for the last 6 years?

A I noticed nothing more about the sand, than after a flood, when the flood comes, it throws it out. It throws it out of the river and up on one side

Q That is all you know about the sand being in the water?

A I never examined the center of the river to see whether sand comes down or not. I suppose boulders and some thing or another come down.

Q You have lived on the river twenty years and do not know whether sand comes down the river?

A Of course, it must come down the river, or it could not go to work and fill these bars up on one side, but I could not see through the water to see whether the sand came down the river or not.

Q Do you know what it is in the river, that is of that bluish or lead color?

A I suppose it is this blue dirt that comes from the Gold Run mine

Q That causes the water to be blue, the blue dirt?

A The blue gravel.

Q Do you know what that blue dirt is? A I do not know as I do

Q You say that the material that came down in the earlier days was lighter material; I will ask you whether or not some of that material contained boulders?

A I suppose some of it did contain boulders

Q Boulders came down the river then, did they not?

A I did not see these boulders coming down the river.

Q But they were there?

A Yes, there are boulders in the river. There were boulders in the river when I worked on it from 1855 to 1861

Q There were other boulders came down the river from some place from 1855 to 1870 were there not?

A Yes, I have seen boulders coming down to my place larger than they stand here, down the Canon and they made a dam across the river, dammed the river up

Q And then washed out again?

A No sir, they stand there and will always stay there

Q When did they come down?

A The came down in 1880

Q Boulders as large as that?

A Yes sir, larger than that a great deal larger

Q Do you mean to testify that there is a dam in the river at that point?

A I mean that it dammed the river up, and the water was at a light stage, and the water ran back for

500 feet. That I seen myself.

Q Do you mean to say that there is a dam in the river at that point?

A The dam is covered over at the present time, but the stuff that came down the Canon formed that dam.

Q There is no dam there?

A The dam is there, but the fact of the business is, it is covered over at the present time. This was a slide that came from the mountain.

Q A slide? A Yes, a slide that came from the mountain and that caused that dam.

Q Did you see that slide?

A I seen that slide

Q In 1881? A Yes.

Q Now I ask you the question whether or not boulders came down in the earlier days?

A Well, I seen these slides —

Q I say did you see boulders coming down the river in the earlier days — no slides?

A. Earlier than those slides?

Q I am not asking about slides. I ask you whether or not in the earlier days boulders came down the river to your place?

A I suppose boulders that were washed, that came from out of those claims, the rock that came out. But they did not ever come along any distance down the river.

Q Did they come down to your place? A Yes there are some down to my place

Q And they came down in great quantities before 1862 did they not? A No sir I do not think they did in great quantities

Q Were there not large deposits of boulders at your place before 1862?

A There were deposits of boulders that had been there. They had been at the time of Noahs flood, for I went over them.

Q You say you went over them at that time?

A No sir. I did not go there about that time. But I suppose they came there about that time

Q I ask you whether or not there were not bowlders in great quantities at your place, that came down the river before 1862?

A Yes, I seen bowlders

Q Answer my question, yes or no? A That came down the river?

Q – (Reporter reads question)

A. Plenty of them. I do not know where they came from

Q The river was considerably choked up at that time with bowlders at that place was it not?

A. Choked up? no sir it was not. The old original bowlders were in the river.

Q There were large deposits of bowlders there?

A. There were no larger deposits than in other places. After they commenced washing at Gold Run, we could see the old natural boulders in the river

Q. Before 1862 there were large deposits of boulders, up and down the river there were there not, that had come from the mines?

A No sir; not that came from the mines. Not that ever I seen

Q You never saw boulders in that river that came from the mines before 1862?

A Not before 1862 I did not. For I think, the commencing, during heavy washing at Gold run in 1861 or 1862. Before that time I seen all the natural boulders that were in the river, but no boulders that came from any mines.

Q Now sir, do you not know, that a large quantity of boulders were crushed in the upper washings of the Gold Run mine, and the Iowa Hill mine, and the Independence mine and all the mines at the several points above your place?

A Well if they did these large boulders staid there and never came down to my place

Q They never came down to your place before 1861?

A I do not believe they ever came down there.

Q Did you see them in the river bed at any point above your place?

A Yes, I seen the natural boulders all over the river

Q The flood of 1861-2 swept them all out?

A I do not think the action of the water would have power enough to carry them out

Q You do not think so?

A No sir

Q You just said that boulders

Which came down from the Gold Run mine, as high as this < indicates > to your place?. A I did not say from the Gold Run mine, I said from the Pritchard claim.

Q Where is that?.

A It comes down close to my house. It comes so close that I left the place and would not stay there

Q How did those boulders get down into the river?

A The fact of the business is, it is a very steep moun-tain. It is a steep mountain and the dirt got behind it and the slide comes and it sends every thing before it into the North Fork of the American river and there is not much of a grade there

Q How much to the mile?.

A I suppose 25 or 30 feet the the mile

Q With a very large volume of water running through there, How fast do you suppose the water will run?

A I suppose it will go about 60 feet in 15 seconds

Q 60 feet in 15 seconds?

A Yes,

Q That would be 4 feet to the second. At this time Now with the river filled up how fast does it run there? A I don't think it runs near as fast, because the river is so much higher now, and the water has room to spread

Q I mean when you fill it up with water?

A When you fill it with water it does not have so much power as when confined in a narrow channel

Q I am asking you, when you fill the river with water what is its velocity at your place?

A I do not know. I suppose

it would be somewhat greater than at the time when it went sixty (60) feet in 15 seconds

Q Somewhat, not very much greater do you think?

A I do not know in regard to that

Q You think it would be twice as great?

A Well, perhaps it might

Q Not more than that?

A I would not say whether it would or not, I have not tried it

Q How fast does it run at high water, extremely high water? A I could not say exactly how fast

Q You have no idea about that? A No sir

Q Would it run 15 or 20 miles an hour? A I could not say. I do not think it would run that fast.

Q Have you no idea how fast it would run?

A I do not know as I have in particular

Q Do you know any thing about the power of water in carrying material in it, and rolling it along?

A No sir.

Q You do not know whether it would carry a boulder or a pebble do you? A I have lived along on that river when there were great torrents in there, and when I have seen big bodies of water, and if it would carry them, I would hear them grind along in the river. I lived so close to it that I could hear it.

Q Would you hear it from your house?

A I would have ~~heard~~ it if they went along there

Q You did not hear them?

A No sir

Q You think it impossible that they went down because you did not hear them from your house? A. After the floods from 1855 to 1861.

I could see no difference in the river after a flood from what it was before the flood came.

Q As I understand you, you know these boulders did not come down the river because you did not hear them from your house? A My house is right on the edge of the river, and I can hear the water and everything else.

Q And if any boulders came down, you would have heard them grinding in the bottom?

A Yes, I suppose so. I can hear a log when it comes along striking on one side, on the rocks, to the other.

Q Where is the filling in the river then 70 feet deep?

A Below Nords Bar, near Hamilton's bridge or Calloways bridge

Q Was there a hole in the river there to be filled up?

A No sir, there is a bar on the other side

Q. Now this filling of 70 feet high makes a big dam there?

A. No sir, it makes no dam. It has thrown the river on one side. On the opposite side of the river there were some hydraulic claims in 1861 and 1867 and along there and at this time you can not see where those hydraulic claims were and the water was taken across the river to work those claims, on the bridge part of the time.

Mr. Byrne Completing your answer. You said the that water was taken across the river ~~the~~ to work these claims on this bridge?

A. Yes. The water was taken across on the bridge to work that claim and at this time you can not see where the claims were. It is washed off, and there was a house that stood there O'Hamlin's house or Calloway's house and where the house stood the tailings are all over there, and there were three houses below, and the tailings are all over where those houses were.

Mr. Hart. Then these tailings 70 feet high were on one side? A I did not see the tailings immediately in the river, but they were thrown up to that depth coming around that turn and all the way along the river the same as at High Bar all those bars along the river are covered up.

Q They were thrown up on the side hill, 70 feet above the bottom? A Not on the side hill. The river is very wide there and the action of the water has thrown them up there on the side.

Q Has not the water thrown them up in that form (illustrating) about like that 70 feet high?

A (illustrating) The river runs along here, and here in the turn in the river and on this side is where it has thrown them up

Q On a sand bar?

A Yes, it formed a sand bar here and the hydraulic claims that are on this side you can not see where those hydraulic mines were

Q It is washed out there?

A It is all covered over. This gravel was all washed out, but where it washed the gravel out it filled it up with tailings. The force of the water has thrown the tailings up and made an embankment or bar there

Q How wide is that bar?

A That bar is some 200 or 300 feet wide. It is a very wide place in that river

Re-direct Examination of John E. Warner

Mr. Byrne. You said that the action of the water had thrown the tailings on one side of the river there and had formed a bar?

A Yes

Q What is the depth of the tailings that are in the river at that point? A I should think they would be about 50 feet. They would average that across the river in that place

Q You spoke of High bar being covered up? A Yes.

Q Do you know how high that was above the original stream? A Well, it was some 25 feet

Q Do you know how deep it is covered up?

A No sir I do not know what the depth is. It is covered up to a considerable depth.

Q Is it at all observable now. Can you see the place?

A No sir, you can not see any bar there

Q You spoke of a house which formerly stood on the bank of the river, and the site of which is now covered by tailings? A Yes

Q. How high over that house above the river?

A That house was about 40 feet.

Q How high above the site or foundation of that house, do the tailings now extend?

A I cannot say in regard to that for I did not measure it

Q You were asked if the flood of 1861-2 did not sweep out all the ~~tailings~~ boulders in the river? A Yes.

Q What did the flood of 1861-2 sweep out

Mr. Hart. I object to that question, and to their assuming any thing that has not been proven

The Court. Did it sweep anything out?

A It swept all the light material out, gravel and stuff that came from the Gold Run. That was swept out

Mr Byrne And what did you say in that connection about the flood of 1875-6?

A Well, that cleaned the river out

Q So that the deposit which is there now, has come in since 1875-6? A Yes.

Q You spoke about a slide? Where is that slide?

A That slide was from Pritchards claim, from Pritchards Canon.

Q Where is that with reference to the site of your bridge?

A It was close by my bridge, not far from it

Q On which side of the river is the slide?

A It is on the Iowa Hill side

Q How extensive was that slide? A Well, that slide continued there for some three or four weeks, coming

Mr. Hart. It kept sliding do you mean?

Mr. Byrne. The material kept coming down for 3 or 4 weeks? A Off and on it kept coming down. So much so that it came near to my place, and I did not live there. It came within ten feet of my door.

Q What was the effect of that slide? A It dammed up the river to such an extent that the river was high at that time and the water ran backward for a little while. I saw the water go back up the stream for some 500 feet.

Q When did you say that occurred? A That occurred in 1880 I think 1880 or 1881

Q You spoke of having frequently dipped up a bucket of water from the stream there? A Yes.

Q How long did it take that water to settle so as to make it suitable for drinking or cooking purposes?

A Well, I have drank it ten minutes afterwards

Q In 10 minutes?

A Yes, I have drank that water.

Q How much sand did you say would be in the bottom of the bucket? A There would be very little sand, you could hardly perceive it

Re-cross-Examination of John C. Warner

Mr. Hart. Q How did you know that the water had settled if you could not perceive the sand? A It did not grind against my teeth

Q When you drink the water it grinds against your teeth. Did you put on your glasses in order to look at the sand, in the bottom of the bucket?

A I frequently have got down on my knees and drank it, but I dont do that often, drink the water out of the river while they are washing

Q When you got down on your knees and drank the water in that way, did you get any sand in your mouth?

A Not enough to scour me in any way

Q It scours your teeth somewhat? A Not at all

Q It grinds them you said?

A Not a bit. I said it did not affect my teeth

Q After you set it to settle, you said it did not affect your teeth? A No sir, I said to drink it out of the river

Q Does it settle in the river?

A I do not suppose it would. The commotion of the water would keep it from settling

Q I want to know how you could know that the water was settled in the bucket if you could not perceive the sand

A You could see that the water was more clear, it will become clear nearly

Q Are you certain there was any sand in the water at all?

A Yes, there was sand in the water

Q There was not a great amount. There was not a teaspoonfull in the bucket?

A No sir, I do not think there was. There might have been more. I have dipped it up but I have not taken particular notice of it.

Q Was there any blue mud? In the bottom of the bucket after it settled?

A No sir, I did not discover any blue mud. I suppose if you took up a bucket full of this blue water and let it settle for a considerable time, there might be some

Almost cast in the bottom of the bucket. I have been up on the river here, for years and years and I had no other water to use. We cooked with it

Q Did not the water settle clear in 10 minutes, so as to be perfectly clear?

A It settled clear enough to be drank, and to be palatable

Q You can drink it without settling it? A I do not consider it any worse than the water in the Mississippi River and I have drank that lots of times.

Q You think it was good enough to drink without settling?

A Yes sir, good enough but I would rather have it settle a little

Q It would settle in ten minutes? A I have drank it thousands of times, taking it right out of the river and drinking it. I did for year in other places. I had no other place to get my water, but I have moved to a place where I can get good water.

Q Allowed it settle in ten minutes? A I will not say exactly the precise time it will take to settle it

Q Allowed it settle in 20 minutes? A I never looked at the watch, I never timed it

Q You have no idea how long it will take to settle

A It settled good enough for me to drink. It was good enough for me to drink any how. if I was dry. Most any man would drink it if he was dry. I found no detriment in drinking it.

Q Was it still blue when you drank it? A Well, I used more of the water when it was red, than

I have since it was blue. For the most of the time since it has been blue, I have had a spring at my place.

Q You do not like the looks of the blue water?

A. I moved up to where I could get good clean water and I got a better place to put a bridge across, and I thought I had a secure place until they commenced running this heavy stuff down from the Gold Run. And if they had continued washing their top dirt perhaps I would have the bridge at this time.

Q That blue water you speak of is good palatable water, nice?

A Well, a man would not drink it if he had other water close by, but any way it is good and I taste nothing wrong about it

Q You have never tried to settle any of this water since it became blue?

—" A — No sir

Testimony of John B. Hobson

Called for defendant Sworn

Mr Byrne Mr. Hobson where do you reside?

A At Iowa Hill Sir

Q How long have you lived there?

A Since about June 1878

Q When did you come to California? A In June 1859

Q When and where did you first engage in mining?

A In a ravine, in one of the branches of Auburn Ravine Near the railroad. Near where the railroad is at the present time

Q In Placer County?

A In Placer County

Q When did you next commence mining, and where?

A I next began mining in 1871 in Placer County

Q State where, whereabouts in Placer County

A About 3 miles east of Auburn on the line of the railroad, quartz and gravel mining.

Q Quartz and gravel mining?

A Yes

Q. How extensive were your mining operations there. I mean particularly gravel mining? A Well, for the first four years they were small until 1875. In 1875 I began mining on a large scale

Q. Do you know how much material was washed out of that mine? A Out of the Auburn gravel mine

Q Yes? A Well, I had charge of the mine, and kept an account of the amount of material that was moved but I do not recollect exactly

Q You remember the length and depth of the excavation?

A There were two disconnected excavations

Mr. Hart. Where were these mines; up on the American River?

Mr. Byrne. Yes. Will you give the size of those excavations, the length and the depth?

A One of them is about 600 feet and the other 200

Q In length? A Yes.

Q And what the depth?

A They would average 40 feet

Q Where did the tailings and material from those mines discharge? A The discharged into Quartz ravine and from thence into the North Fork of the American River above the North Fork Bridge

Q Do you know the extent of mining that has been carried in the county of Placer the material of which is discharged, or has been discharged into the North Fork?

A There has been a great deal of mining done, between Rattlesnake — that is as

far down as I am acquainted
with the mines — Between
Rattlesnake and what is known
as Grizzly ravine.

Q Where is that?

A That is about 4½ miles East
of Auburn on the line of the
rail road

Q Describe the Extent of the
mining, and where the material
from it was discharged?

A It was principally surface
mining

Q And the extent of it please
as well as you can?

A I could only approximate it

Q Give us an approximation

A I think it would cover
probably 80 acres

Q And to what depth?

A That was on my own land.
That is about 80 acres on my
own land

Q To what depth was that
washed? A It would
be hard for me to tell ~~that~~.
It was stripped off

Q Describe to the Court

the other mining in that neighborhood?

A There was a good deal of ravine mining done by the Chinamen at the time I lived there

Q Is there any mining going on there now?

A There is some in Junction ravine now. I know there is mining being done there at the present time

Q Did you state where this material was discharged? into what stream it was carried?

A Into the North Fork of the American River through its tributaries

Q Do you know how much ground has been worked in the Iowa Hill district?

A Yes I made an estimate of how much was worked some time ago

Q What was the result of your examination?

A Well, my memory is not good. If you allow me to see my note book I can tell you exactly what the Estimate amounted to

Q Before you answer that question, state to the Court what you mean by the Iowa Hill district, what it includes

A It includes a district extending from King's Hill on the west to Secret Canon on the East, and from Shirttail Canon on the South to the North Fork on the North

Q How many miles wide and how many miles long would that district of country be about? A I can not recollect exactly now how long the distance is without looking at the map.

Q There is no objection to your referring to that map if you see fit. I presume it is a pretty correct map See if the points you refer to are marked on that map?

A It is not high enough up.

It is about 22 miles in length

Q And about how much in width? A Well, it varies in width. The area covered by mining claims and mining locations is about 30 square miles

Q Embraced in what you call the Iowa Hill district? A Yes.

Q Now answer the former question. How much ground has been washed off in that district? A It covers an area of about 358 acres.

Q Did you ascertain that fact by measurements made by you? A Yes

Q To what depth has that been washed? A Well, it varies. According to my calculation, as near as I could get at it — Of course you can not tell exactly the depth of a bank, where it has mined out, or what it has been. But I averaged it as near as I could

Q What was the average?

A I have it here in sections. It varies. But the total cubic measurement of it was 36.068.000 cubic yards

Q How much of that had been washed off prior to the time that you went there in 1878, if you know?

A I am not prepared to answer that question. I made no calculation of that kind

Q Do you know how much has been washed off since 1878 when you went there?

A Yes, into the American river I do.

Q Well, we will say into the American river?

A Washed into the American river, that is above Indian Canon there were 31. acres since I went there

Q 31 acres did you say?

A Yes.

Q Is that all that has been washed into the North Fork of the American River in" that district since you went there? A That is all I know of

Mr Hart. You say above Indian Canon?

A That is on the North Fork above Indian Canon above its junction with the river

Mr. Byrne Where is Indian Canon with reference to Rice's bridge? A It is below Rice's bridge

Q How far below?

Mr. Hart. If it would be any convenience, I would like to have you give that in cubic yards

A The majority of this ground I mined myself. That is the largest proportion of it, and I know the measurements accurately the same as I keep my accounts

Q Of these 31 acres?

A Yes. Of that portion, the majority is pretty nearly accurate — 3.585.800 cubic yards

Q That is since 1878? A Yes

Mr Byrne Was that washed by you there? A Not all of it. I washed 2.420.000

Q. 2.400.000. from what?

A. 2420.000 from the Independence Hill mine

Q What mines discharge into Indian Canon?

A There are the mines at Iowa Hill proper

Q Any others?

A Yes. the mines on the Morning Star Hill, Richardson Hill, Birds Flat, Strawberry Flat, Roach Hill, portions of Independence Hill, portions of what is known as Wisconsin Hill and Elizabethtown

Q What becomes of the tailings that are discharged into Indian Canon? A These are dumped into the Canon. The tailings are dumped from the mine into the Canon

Q Are they discharged into the North Fork?

A The Canon finally connects with the North Fork. It is a tributary of the North Fork of the American River

Q To what Extent is that

Canon filled up with tailings?

A I cannot tell exactly how much it is filled up only from what I know myself since I have been there

Q State that? A. There is one point there that I am confident has filled 60 feet since I have been there, in Indian Canon. There are ravines filling below, but I do not know what the depth of them is

Q What mines discharge into the North Fork between Canon Creek and Stevens Bridge? I mean from the Iowa Hill district? A Since I have been there? We will take it beginning above. There is the Wolverine first, Aurora, Pritchard, Independence Hill and there is the Booth at Iowa Hill.

Q Any other?

A None other to my recollection

Q Is there a claim known

there as the Union Claim ?

A Yes

Q How long have those Claims been working ?

A Booth worked last year, last winter. The Wolverine worked 2 winters. The Aurora 2 winters. The Pritchard 3 winters. The Union 1 winter. and the Independence Hill Claim I have been superintending 3 seasons, 3 winters.

Mr Hart 1879 —

A. 1878-9. 1879/80 - 1880-1.

Q That is Every since you have been there. You are speaking of since 1878 ?

A Yes since I have been there

Mr Byrne. To what Extent had those claims been working before you went there, judging from the Excavations you saw ?

A Which Claims do you refer to - Q. All the claims discharging into the North Fork of the American River, above Rices bridge ? A. The Wolverine and Union were not working at all Except by drifting.

Q Before you went there? A. The Wolverine and Aurora were not worked before I went there by the hydraulic process Except by drifting. They have since been worked by the hydraulic process.

Q State to what extent the other claims there were worked before you went there? A. I made no Estimate of the amount. I have the total amount of ground that was washed off.

Q State it? A At Iowa Hill, sixteen acres, Independence Hill 20 acres. Union 6 acres. Pritchard and a small bit of the Blue Wing Equal to 10 acres. Aurora 3 acres. Wolverine 3 acres. And in all fifty eight (58) acres.

The Court This is since you went there yourself? A yes sir that is equal to 7,028,000 cubic yards

Q That is the total I understand? A yes sir that is all the ground that is worked off in that side of the river

Q Since you went there and before? A The total area of excavation 7,028,000 cubic yards

Mr Byrne Q That includes all the ground that has ever been worked off? A. Yes sir that I have any knowledge of

Q About how much water is used in that district in the mines that discharge into the North fork? A Well I made one I believe. I made a calculation or an estimate

Q About how much?

water for hydraulic mining

A Since I have been there it would average about 2500 inches for 100 days It would average about that

Q Per day? A No 2500 inches for 100 days - that is per day for 100 days

Q What is the effect of the discharge ~~of the discharge~~ of the material from these mines into the North fork? A It has the effect of filling up the stream

Q To what extent is that stream filled up since you went there?

A It has filled up at Warners Bridge so near as I can recollect about 30 feet that is since 1878, of course I do not know anything about it before that time

Q It has filled up 30 feet in 3 years? A Then at Blue Wing Cañon it has filled up 30 feet

The Court Where is that?

A That is not on the map It is about a mile above Warner's bridge. It is the same place as Ford's Bar

Mr Byrne Q Warner's Bridge is where? A Warner's Bridge is at the upper end of Ford's Bar

Q State the filling at any other points or places that you are familiar with? A Well I think it is filled a little more than that. I think it is 31 feet as near as I can recollect at what is known as Hobson's Cañon

Q From whom does that Cañon take its name?

A Somebody took the liberty of naming it after me. I never knew it was called that till I saw it on that map

Q Does your mine discharge

into that Cañon?

A It does

Q What is the effect of these fillings up, the flow of tailings from the Gold Run mines down in the river?

A While we are running the river dams and of course that has a tendency to cause the material coming from above to deposit. In fact the river shows that by the manner in which it is filled

Q Do I understand you to say, that the dam which has formed there at the mouth of Hodgson's ravine obstructs the flow of water entirely? A At times it does almost entirely, that is it raises the flow of the water up

Q How far does it set the water up? A Clean across the river

Q And how far up stream?

A Up stream I have noticed it dam up there several hundred feet but I never measured it

Q What is the effect of that upon tailings coming into the river from the Gold Run mines?

A Well of course it reduces the grade of the stream and causes them to deposit

Q What is the effect of Winter freshets upon the dam thus formed at the mouth of Stolson's Ravine? A There was only one freshet since I have been there that is what I consider a freshet that the bed of the river has not gone down when it has raised

Q What year do you now refer to? A That is 1881

Q That is the last one?

A Yes sir

Q What is the character of the material that is put in there from your mine and that is put in there from the adjacent mines on Independence Hill? A The character of the material?

Q Yes A It is composed of boulders and the largest one is 15 feet in diameter

Q And what else?

A Down to silt

Q What part of your mine do you find these boulders in? A The largest ones on top

Q What is their nature or characteristics?

A Volcanic

Q Where do you usually find wash boulders in hydraulic mining?

A In the gravel

Q But with reference to the bed rock?

A Well they get larger

as you approach the bed rock, the boulders become larger and heavier as you approach the bed rock

Q That is wash boulders?

A Yes sir.

Q In what kind of formation are these other boulders that you call volcanic? A The volcanic boulders?

Q Yes sir

A What do you mean by "formation"?

Q Are they in the gravel or in some other material?

A They are in a kind of top waste material composed principally of silt

Q After they are discharged into the river do they remain there or does the action of the water remove them? A We break those boulders up some of them that are too large to run through the flume; any of them that are large enough to run through the flume we run them through.

Q They are dumped into the river? A They are dumped first into the Cañon and they are run from thence into the river

Q How large pieces are you accustomed to discharge, how large pieces of rock are you accustomed to discharge into the river? A 2 or 3 cubic yards some of them. When we are running that top material we run large boulders with it

Q Could you give the size or weight in pounds? A Oh yes they have gone through that would weigh a thousand pounds

Q Have you made an estimate of the amount of tailings, the average amount of tailings, the average depth of tailings I will say in the North fork marked from Rice's Bridge up to the head of Pikerings Bar. A yes sir I did

Q When did you do that?

A I did that here not long ago

Q Can you give the date?

A no. I cannot.

Q About? State the month if you recollect?

A The 22nd of November I went on the river to see how much the river had filled up to a certain point that I was familiar with. I made the estimate after that.

Q How did you come to be familiar with those points of which you speak?

A Well I was on the river in 1878 or 1879 — at least 1879 I went there for the purpose of making some measurements for the purpose of putting in an under current. That was the time that I made those measurements. That I went back to refer to.

Q Did you make any measurement at that time with reference to the under current? A Yes sir

Q Did you preserve a memorandum of those measurements? A Yes sir I did

Q And did you refer to those measurements in making your estimate of the quantity of tailings in there? A Yes sir

Q Is there a difference and a noticeable difference between the character of the material coming from the Gold Run mines and the tailings coming from the Independence Hill mines? A Yes sir

Q State what the difference

is and how you distinguish one from the other?

A The material from the Gold Run Mines is darker in color, a great deal than what comes from the Independence Hill and Roache Hill Mines, a great deal darker

Q How muddy is the water on that point of the river, the water I mean coming from the Gold Hill mines at that point of the river where it mingles with the water which comes from Hobson's Ravine? A well I have noticed, I think it was in 1879 and 1880 – the Winter of 1879 – 80 I noticed it more particularly than any other time I noticed the water had a bluish cast and was comparatively clear

Q At what time of the Winter was that? A I do not recollect now, but I noticed it several times during the Winter

Q What kind of a Winter did you have as to water last Winter? Say 1880-81

A Last Winter is what we call a freshet Winter

Q What effect did the water in the river then have upon that mass of tailings opposite Stolson's ravine? A It did not seem to move them

Q It did not seem to move them? A No sir

Q Did you pay any particular attention to this fact at the time?

A I did not pay any particular attention to it no more than I saw the river raised from what I have seen before— we were all calculating about the hill there that the river would be swept clean by that freshet but it was not.

Q What is the color of the tailings that come from the mines on Independence Hill and Roache Hill and Iowa Hill which are discharged into the North fork? A Well they are composed of quartz gravel, quartz pebbles, and slate pebbles

Q I asked you the color? A The color of the gravel?

Q Yes Sir the color of the water? A The color of the water is a kind of reddish yellow that altogether depends upon the character of the material that we are working in. Near the top where there is a great deal of top material there the color is red and when we are working down lower in the gravel it is more of a grey color, yellowish color

Q Is it at any time blue?

A None; we have no blue gravel in the mine

Q Did you state the average depth of tailings in the river between Rice's Bridge and the mouth of Cañon Creek. I forgot whether I asked you? A In making an estimate, I averaged it at five yards — 5 yards deep, that is figuring that there was nothing at all gained at Rice's bridge from the time ~~you~~ I went there. ~~that~~ Taking 30 feet at Rice's bridge I add half of that for an average depth

The Court To Cañon Creek? A No sir I mean to Warner's bridge. Warner's bridge I do not wish to be understood that I made the estimate to Cañon Creek I did not ~~know~~

Q. Between what points

A It will between Rices Bridge and Warner Bridge at the upper end of Nords Bar. That is the only distance I took in to consideration at all

Mr Hart What is the distance?

A I made the distance from Rices Bridge to Stevens Bridge 12.358 feet. From Stevens Bridge to Warner Bridge 23.630. Total 35.988 feet.

Mr Byrne That is your Estimate of the increase of tailings of the river since you first saw it?

A The depth?

Q Yes? A Yes that is what I figure it, but there are bars above where I Estimated and I did not take the bars into Consideration at all

Q You may state the amount? A. 3.818.660 yards

Q Is there any difference observable in the character of the sand above Hobson Ravine and that which is found below? A According to my eye there is a great difference. You see in the color of it.

Q The material of which it is composed and the color? A The sand above Warners bridge is coarser and sharper than that deposit by the river on the Iowa hill side

Q Are there any other distinguishing characteristics? A Well, you find above Warners bridge, after you get up some distance, you can find pyrites along a ~~the~~ area and along the edge of the river

Q Do you find them below that point?

A I fail to find any below Warners?

Q Did you make any examination below?

A Yes, I found them above and I went to see if I could not find them below, and I could not.

Q Did you state the amount of mining ground which is located in the Iowa Hill district in the mining claim — The amount of mining ground or ground located for mining purposes? A About 18.200 acres in the Iowa Hill district.

Q How much of that remains to be washed, or can be washed by the hydraulic process? A Well, I would not like to segregate it

Q If you will be required to make any examination for that purpose, it is near adjourning time and we can make the examination in the morning?

A It is a question I would not like to answer

Q By examining your notes and references can you ascertain?

A I could, according to my

judgment, but it would be my judgment and it would be from the stand point of a purchaser. That is, if I was going to purchase the ground to work it, I could say how much I would be willing to pay for hydraulic ground

Q Very well, you may state that? A It would not exceed 200 acres

Q How must the remaining portion of these 18.200 acres of which you spoke be washed or mined?. By what means? A By the means of drifting and afterwards by hydraulicking, that is, the dirt is first drifted and dumped onto a dump, and there washed by the hydraulic process through a hose.

Q All mines are washed by the hydraulic process as far as the hose and water is concerned?

A Yes, so far as I know.

Recess until tomorrow

Saturday Dec 16 @ 9.30 am.